ment of the peace commission, and remonstrating against further increase of the Navy; to the Committee on Naval Affairs.

By Mr. McHENRY: Petitions of Washington Camps Nos. 397, of Lime Ridge, and 116, of Mount Carmel, Pa., Patriotic Order Sons of America, for the immediate enactment of House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. McLAUGHLIN of Michigan: Paper to accompany bill for relief of Jeptha Wright; to the Committee on Invalid Pensions.

By Mr. McMORRAN: Petition of Rose E. Kerr and 150 others of Carsonville, Mich., for extension of parcels post; to the Committee on the Post Office and Post Roads.

By Mr. MAGUIRE of Nebraska: Petition of citizens of Reslo, Cook, Plattsmouth, and Denton, Nebr., against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. MANN: Petition of clergymen of Chicago, Ill., and other cities, against further increase of the Navy; to the Committee on Naval Affairs.

Also, petition of Chicago Conference Board of International Molders' Union of America, for repeal of tax on oleomargarine to 2 cents per pound; to the Committee on Ways and Means.

Also, petition of Chicago Building Trades Council, for San Francisco as site of Panama exposition; to the Committee on Industrial Arts and Expositions.

By Mr. A. MITCHELL PALMER: Petition of Local Union No. 287, Brotherhood of Carpenters and Joiners, for House bill 15413; to the Committee on Interstate and Foreign Commerce.

By Mr. PEARRE: Petition of My Maryland Lodge, No. 186, International Association, for eight-hour clause in naval appropriation bill and for the construction of the battleships in Government navy yards; to the Committee on Naval Affairs.

Also, petition of Baltimore Federation of Labor, against repeal of law requiring all Government securities to be printed from hand-roller presses; to the Committee on Expenditures in the Treasury Department.

Also, petition of Blue Ridge, Brunswick, Mount Vernon, and Jefferson Councils, Junior Order United American Mechanics, and Long Corner Council, Daughters of America, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. ROBINSON: Petition of George Rule, jr., and others, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. SHEFFIELD: Papers to accompany bills for relief of James J. Morally, Henry A. Reynolds, William Johnson, Rosella R. Winslow, Margaret Sayles, Samuel C. Fish, Sarah J. Viall, and George P. Lawton; to the Committee on Invalid Pensions.

By Mr. STURGISS: Petition of Washington Camp No. 33, of Stotlers Cross Roads, and Washington Camp No. 22, of Berkeley Springs, of the Patriotic Order Sons of America, and Council No. 20, Junior Order United American Mechanics, in the State of West Virginia, for more stringent immigration laws; to the Committee on Immigration and Naturalization.

By Mr. YOUNG of New York: Petition of Wyckoff Heights Taxpayers' Association and Harold M. Hutchinson and other citizens of Brooklyn, N. Y., for building a battleship in Brooklyn Navy Yard; to the Committee on Naval Affairs.

SENATE.

MONDAY, *February 6, 1911.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of the proceedings of Friday last when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

RAILWAY MAIL CARS.

The VICE PRESIDENT laid before the Senate a communication from the Interstate Commerce Commission, transmitting, in response to a resolution of June 25, 1910, certain information relative to the cost of building and maintaining post-office cars (S. Doc. No. 810), which, with the accompanying paper, was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

Mr. LA FOLLETTE subsequently said: I ask unanimous consent to have printed in the RECORD the report presented from the Interstate Commerce Commission upon the resolution which I introduced at the last session inquiring as to the cost of the construction and maintenance of railway mail cars. It is a brief report and contains a lot of information which I think will be of value.

The VICE PRESIDENT. Without objection, the report will be printed in the RECORD.

The report is as follows:

[Senate Document No. 810, Sixty-first Congress, third session.]

INTERSTATE COMMERCE COMMISSION,
Washington, February 2, 1911.

To the Senate and House of Representatives:

The Interstate Commerce Commission has the honor to submit the following in response to the resolution of the Senate dated June 25, 1910, which reads as follows:

"*Resolved*, That the Interstate Commerce Commission make an investigation and report to Congress at its next session the cost of building and maintaining post-office cars, namely:

"First. What would be the reasonable cost to the Government per car for standard 60-foot railway post-office cars of the type in common use fully equipped for service?

"Second. Cost of new modern cars of steel.

"Third. What would it cost the Government to keep such cars in repair for average use? (*a*) Of wooden construction; (*b*) of steel construction.

"Fourth. What is the average life of such a car? (*a*) Of wooden construction; (*b*) of steel construction.

"Fifth. What do the express companies pay to the railroad companies for hauling the cars of the express companies of equal capacity?

"Sixth. The average cost of heating and lighting 60-foot railway postal cars."

Upon receipt of copy of this resolution the commission assigned to the investigation of the matters involved three of its expert employees, a copy of whose report to the commission is hereinafter set forth. While the cost of maintaining mail cars ordinarily should be about the same on different lines operating in the same territory, dependent, however, upon conditions under which the cars are used, the reports of the carriers show this cost to vary from a minimum of $2.80 per 1,000 miles to a maximum of $18 per 1,000 miles.

The accounts of the railroads have been so kept that they show the average cost of maintaining a passenger car, but no distinction has been made between the different kinds of cars used in their passenger trains—that is, between mail cars, baggage cars, and passenger coaches proper.

There has not been sufficient time to examine the multitude of shop records to obtain actual and complete figures, but from an analysis of the tables submitted and from personal examinations by our experts the conclusions stated in the report submitted have been reached. Therefore, although not absolutely accurate, this report is sufficiently so to form the basis of an intelligent judgment of the actual expenses incurred by railroads in maintaining these mail cars year after year.

Damage from wrecks and accidents to mail cars enter into the accounts of the railroads, but it has been impossible to separate that item from others. As between themselves, the railroad upon which the wreck occurs is responsible to the owner of the car for the damage sustained.

The expenses shown in this report do not include what might be termed the expenses of ownership, such as the cost of insurance and interest on the investment, nor do they include items for reconstruction in conformity with requirements of the Post Office Department or of the Congress.

We regard the steel car for use in passenger trains as having passed the experimental stage, as is evidenced by the rapidly increasing use of that type in newly constructed sleeping cars, coaches, and dining cars. There can be no doubt that a steel mail car will afford much more protection to the safety of the employees in the car, as well as to the mail matter. The cost of a steel car is but little more than that of a wooden car. The cost of maintenance of the steel car can not be accurately stated at this time, but there is no reason to assume that it will be much greater than for a wooden car. In any event the extra cost of construction and maintenance can not equal the advantages arising from the added safety which the steel car affords. We think that hereafter steel mail cars should be constructed in the place of other types made partly or largely of wood.

The report from the committee of experts designated to conduct this inquiry is as follows:

"Question 1. What would be the reasonable cost to the Government per car for standard 60-foot railway post-office cars of the type in common use, fully equipped for service?

"Question 2. Cost of new modern cars of steel?"

To more fully cover the subject we have added a third type of car which was not mentioned in the Senate resolution, but which has been in use on certain railroads for several years, viz, wooden cars with steel underframe. We have classified them as follows:

(A) Cars of wooden construction,
(B) Cars of all steel construction, and
(C) Cars of wooden construction with steel underframes.

The variation in the cost of labor and material and the absence of detailed specifications covering types (B) and (C) make it impossible to give an exact figure, as cars of the same general type may differ materially in details of construction, which would be of vital importance in determining the cost; but, generally speaking, the cost of well-constructed modern cars of the types referred to should be within the following limits:

A	$7,500 to $8,000
B	9,500 to 10,000
C	8,500 to 9,000

Question 3.—What would it cost the Government to keep such cars in repair for average use?

This is a very difficult question to answer with accuracy, owing to the variation in the cost of labor and material in different sections of the country; the different working conditions and methods followed in different localities, together with varying climatic and physical conditions which compel certain repairs to be made more frequently in some sections of the country than in others.

In our investigation we have gone to 24 of the principal railroads of the country, and have made as close an investigation of the actual cost of maintaining 60-foot railway post-office cars as the condition of their records and the time at our disposal would permit. Our investigation has disclosed the fact that not one of these railroad companies keeps a separate record of the actual cost of maintaining their railway post-office cars. The records of repairs to these cars, under the system of accounting prescribed by the commission, are kept under the general head of "Repairs to passenger-train cars." Therefore such records as we were able to obtain were largely a pro rata charge based on the total cost of repairs to all passenger-train cars in service.

This method of dividing the cost is manifestly unfair for the following reasons: Cars for carrying passengers are equipped with uphol-

stered seats, carpets, and have highly finished interiors, which are more expensive to maintain than the plain painted interiors of railway post-office cars.

As an illustration of the difference in the alleged cost of repairs given us by parallel lines of railroad which operate under practically the same climatic conditions and where labor charges are substantially the same, we show the following:

Railroads west of the Mississippi River:	
Line A. Cost of repairs per 1,000 miles	$2.89
Average annual mileage per car	83,317
Line B. Cost of repairs per 1,000 miles	$18.07
Average annual mileage per car	91,933
Railroads east of the Mississippi River:	
Line A. Cost of repairs per 1,000 miles	$3.90
Average annual mileage per car	103,250
Line B. Cost of repairs per 1,000 miles	$11.60
Average annual mileage per car	96,326

Another item which has an important bearing on the case is that all records of repairs to railway post-office cars include repairs to cars damaged in wrecks, derailments, and other accidents which, under the present rules of interchange, are termed "unfair usage," and the present rules as enforced by all railroads are that any damage resulting from unfair usage shall be repaired at the expense of the railroad responsible for the damage. Therefore that part of the cost of repairs would not be a fair charge to the Government if it owned the cars.

We obtained all data we could possibly secure bearing on the cost of repairing railway post-office cars, and on this data, together with our general knowledge of the conditions surrounding the operation of these cars, length of time between shoppings, and general cost of repairs in shops, we have based our estimate of the cost of repairs.

3*a*. Cars of wooden construction: Repairs to cars of wooden construction include general or shop repairs when car is shopped for general overhauling, running repairs, including terminal and intermediate inspection, work done on cars by inspectors and light repair men; also lubrication, including labor and material.

Our estimate is that a reasonable charge for this work should not exceed $7.50 per 1,000 miles.

While the expense of keeping cars in a clean and sanitary condition may not be properly placed under the head of repairs, it is, nevertheless, a necessary part of the work of keeping the cars in condition for service. Our estimate, based on an investigation of the actual cost of cleaning cars at different points and an actual test of the cost of cleaning a railway post-office car for a certain period, is that a reasonable charge for this work should not exceed $1.50 per 1,000 miles.

3*b*. Cars of steel construction: No reliable data on the cost of maintaining railway post-office cars of this class are available. These cars are comparatively new, therefore no extensive repairs have been necessary; and it might also be said that they are still in a state of development. Much work, which up to the present time may have been included under the head of repairs by the railroad company, has been caused by the necessity of making changes to remedy faults in the construction or to improve the design of these cars.

Question 4. What is the average life of such a car?

4*a*. Cars of wooden construction: We have based our estimate of the average life of railway post-office cars on the probable time they would be physically fit for the service for which they were designed. The best records obtainable indicate that this would be from 25 to 28 years.

4*b*. Cars of steel construction: Cars of steel construction have not been in service long enough to enable anyone to make a reasonable estimate of their average life.

Question 6. The average cost of heating and lighting 60-foot railway postal cars.

HEATING.

The modern system of heating cars is by the use of steam from locomotives; therefore the exact cost can not be ascertained. Tests made to determine the cost of heating cars indicate that from 80 to 100 pounds of steam per hour is required, and with an evaporation of 7 pounds of water per pound of coal, it would require from 12 to 15 pounds of bituminous coal per hour. The cost, therefore, will vary in accordance with the cost of the fuel. A fair average would be 50 cents per 1,000 miles during the entire year, or $1 per 1,000 miles during the heating season, which, we think, will be approximately six months.

LIGHTING.

In forming our estimate of the cost of lighting we have considered the two systems which are now in common use, namely, gas and electricity.

Gas lighting.—In arriving at the cost of gas lighting we based our estimate on the known cost of gas per receiver to the railroad and the known capacity of the burner per hour. It is impossible to say as to the number of hours the cars are lighted each day or month, or per 1,000 miles. The best data obtainable, reduced to a 1,000-mile basis, give a figure of $2.75 per 1,000 miles. In this estimate we have considered only the modern mantle lamps, which use less gas per candle-power than the old flat-flame burners.

Electric lighting.—The best records obtainable indicate that the cost of electric lights will be not less than 25 per cent greater than the figure given above for gas.

Summarizing these estimates, we have the following figures:

Cost of wooden cars, $7,500 to $8,000; steel cars, $9,500 to $10,500; steel underframe cars, $8,500 to $9,000.

Cost of repairs for average use of cars of wooden construction per 1,000 miles, $7.50; cars of steel construction, no figures obtainable.

Cost of cleaning per 1,000 miles, $1.50; lighting per 1,000 miles (gas), $2.75; lighting per 1,000 miles (electricity), 25 per cent more than gas; heating per 1,000 miles, $0.50.

Figured on a basis of 100,000 miles per car per annum the total annual cost of maintenance would be $1,225, using gas for lighting.

In preparing this report we have considered only the cost of the items referred to in the Senate resolution.

There are other items of expense, such as insurance, taxes, interest, depreciation, and renewals on account of obsolescence which may properly be a part of the cost of ownership, but we did not consider them a part of the cost of maintenance.

While the figures given in this report are an estimate, owing to the fact that it is impossible to get exact figures, they are, nevertheless, based on information gathered in the course of a thorough investigation of the subject; and we believe they very closely represent a reasonable cost for doing this work.

If a more accurate figure is desired, the only way of obtaining it would be to have certain carriers keep a record of the actual cost of maintaining, heating, and lighting 60-foot railway post-office cars for a period of years.

All of which is respectfully submitted.

JUDSON C. CLEMENTS, *Chairman.*

HOLMAN MARR AND CHARLES L. DUNCAN.

The VICE PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusions of law filed by the court in the causes of Holman Marr and Charles L. Duncan *v.* United States (Portsmouth, N. H., Navy Yard) (S. Doc. No. 811), which, with accompanying paper, was referred to the Committee on Claims and ordered to be printed.

BALTIMORE & WASHINGTON TRANSIT CO.

The VICE PRESIDENT laid before the Senate the annual report of the Baltimore & Washington Transit Co. of Maryland, for the fiscal year ended December 31, 1910 (S. Doc. No. 812), which, with accompanying paper, was referred to the Committee on the District of Columbia and ordered to be printed.

SENATOR FROM WEST VIRGINIA.

Mr. SCOTT presented the credentials of WILLIAM EDWIN CHILTON, chosen by the Legislature of the State of West Virginia a Senator from that State for the term beginning March 4, 1911, which were read and ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed the following bills and joint resolution:

S. 1028. An act to appoint Warren C. Beach a captain in the Army and place him on the retired list;

S. 1318. An act for the relief of Arthur H. Barnes;

S. 2429. An act for the relief of the estate of James Mitchell, deceased;

S. 3097. An act for the relief of Douglas C. McDougal;

S. 3494. An act for the relief of Edward Forbes Greene;

S. 4780. An act for the relief of the heirs of George A. Armstrong;

S. 5873. An act for the relief of John M. Blankenship;

S. 7138. An act granting to the town of Wilsoncreek, Wash., certain lands for reservoir purposes;

S. 7901. An act providing for the restoration and retirement of Frederick W. Olcott as a passed assistant surgeon in the Navy;

S. 8353. An act for the relief of S. S. Somerville;

S. 8583. An act for the relief of Malcolm Gillis;

S. 10288. An act granting to Herman L. Hartenstein the right to construct a dam across the St. Joseph River near Mottville, St. Joseph County, Mich.;

S. 10324. An act extending the provisions of the act approved March 10, 1908, entitled "An act to authorize A. J. Smith and his associates to erect a dam across the Choctawhatchee River in Dale County, Ala.;" and

S. J. Res. 94. Joint resolution authorizing the President to give certain former cadets of the United States Military Academy the benefit of a recent amendment of the law relative to hazing at that institution.

The message also announced that the House had passed with amendments the following bills, in which it requested the concurrence of the Senate:

S. 2045. An act for the relief of John B. Lord, owner of lot 86, square 723, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia; and

S. 3897. An act for the relief of the heirs of Charles F. Atwood and Ziba H. Nickerson.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 4107. An act for the relief of the legal representatives of Samuel Schiffer;

H. R. 12825. An act for the relief of Killian Simon;

H. R. 15566. An act for the relief of H. M. Dickson, William T. Mason, and Dickson-Mason Lumber Co., and D. L. Boyd;

H. R. 18589. An act for the relief of W. F. Seaver;

H. R. 19010. An act authorizing proper accounting officers of the Treasury Department to reopen pay accounts of certain officers of the Navy;

H. R. 19577. An act for the relief of Frederick P. McGuire, trustee for Bessie J. Kibbey, owner of lot No. 75, square 628, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia;

H. R. 19756. An act for the relief of Michael B. Ryan, son and administrator de bonis non of John S. Ryan, deceased;

H. R. 24368. An act fixing the date of reenlistment of Gustav Hertfelder, first-class fireman, United States Navy;

H. R. 24434. An act for the relief of Nah-me-won, aush-e-quay;

H. R. 24435. An act for the relief of Kay-zhe-bah, o-say;

H. R. 25234. An act authorizing the issuance of a patent to certain lands to Charles E. Miller;

H. R. 25569. An act to authorize a patent to be issued to Margaret Padgett for certain public lands therein described;

H. R. 26367. An act to pay certain employees of the Government for injuries received while in the discharge of duty;

H. R. 26606. An act for the relief of Charles A. Caswell;

H. R. 26607. An act for the relief of Richard W. Clifford;

H. R. 27069. An act to relinquish the title of the United States in New Madrid location and survey No. 2880;

H. R. 29300. An act authorizing the Secretary of the Interior to sell a certain 40-acre tract of land to the Masonic Order in Oklahoma;

H. R. 30727. An act providing for the sale of certain lands to the city of Buffalo, Wyo.;

H. R. 31056. An act to ratify a certain lease with the Seneca Nation of Indians;

H. R. 31353. An act for the relief of F. W. Mueller;

H. R. 32264. An act for the relief of Frances Coburn, Charles Coburn, and the heirs of Mary Morrisette, deceased; and

H. J. Res. 209. Joint resolution for the relief of Thomas Hoyne.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

H. R. 710. An act for the relief of Cornelius Cahill; and

H. R. 17729. An act for the relief of James F. De Beau.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented resolutions adopted by the house of representatives of the Forty-sixth General Assembly of the State of Missouri, favoring the reclamation of certain land located along the Mississippi River, between Cape Girardeau, Mo., and the Gulf of Mexico, which were referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
FORTY-SIXTH GENERAL ASSEMBLY,
Jefferson City, Mo., February 1, 1911.

JAMES S. SHERMAN,
Vice President of the United States,
Washington, D. C.

DEAR SIR: I am instructed to inform you that the following resolution was adopted by the house:

"Whereas over 20,000,000 acres of the most fertile land in the Nation, located along the Mississippi River between Cape Girardeau, Mo., and the Gulf of Mexico, is not in cultivation because of the lack of proper drainage and protection; and

"Whereas the citizens of Missouri, Louisiana, Arkansas, Tennessee, and Mississippi desire to levee and drain and thereby reclaim this land; and

"Whereas these proposed drainage systems are interstate, and therefore difficult propositions to be agreed upon when left to the landowners of the several States; and

"Whereas the reclamation system to be decided upon will greatly assist in improving the navigable streams under constitutional control of Congress in this territory; and

"Whereas it will become necessary to change the courses of some of these navigable streams, make alterations of the levees and other improvements already established by the Federal Government along said streams, in order to carry out the reclamation schemes; and

"Whereas southeast Missouri is vitally interested in these drainage propositions: Therefore be it

"Resolved by the General Assembly of the State of Missouri, That the Congress of the United States be, and is hereby memorialized to, at the present session of Congress, make such appropriations as may be necessary for the purpose of having preliminary surveys and plans made for draining this land; that this request is not made upon Congress with the view of having the National Government defray the expenses of constructing levees and drainage ditches for the reclamation of this land, but for the purpose of having the Federal Government, through its Agricultural Department, formulate plans for this reclamation system and supervise the work; and be it further

"Resolved, That the chief clerk of the house of the Missouri General Assembly be hereby authorized to transmit to the Vice President of the United States, the Speaker of the House of Representatives, the chairman of the Appropriation Committee of the Senate, and the chairman of the Appropriation Committee of the House, a copy of these resolutions with a letter of explanation to each of the above-named officers."

Respectfully submitted.

J. K. POOL, *Chief Clerk.*

The VICE PRESIDENT presented a memorial of the board of managers of the Society of Colonial Dames, and the memorial of Gail Treat, governor general of the Order of the Descendants of Colonial Governors, remonstrating against the establishment of the proposed reformatory on the Belvoir tract near Mount Vernon, Va., which were referred to the Committee on the District of Columbia.

He also presented a petition of Alexander Hamilton Chapter, Sons of the American Revolution, of Tacoma, Wash., praying that an appropriation be made for the selection of a suitable resting place for the remains of John Paul Jones, which was ordered to lie on the table.

He also presented a petition of Printing Pressmen's Union, No. 1, of Washington, D. C., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented the memorial of the president of the municipal council of Barranquitas, P. R., and the memorial of the president of the municipal council of Toa-alta, P. R., remonstrating against the adoption of certain amendments to the so-called Olmsted bill to provide a civil government for Porto Rico, and for other purposes, which were referred to the Committee on Pacific Islands and Porto Rico.

Mr. GALLINGER. I present a telegram from the National Grange, which I ask to have read.

There being no objection, the telegram was read and referred to the Committee on Foreign Relations, as follows:

NEW YORK, *February 4, 1911.*

Hon. JACOB H. GALLINGER,
The Normandie, Washington, D. C.

The National Grange earnestly protests against Canadian reciprocity bill which puts farm products on free list, while making practically no reduction in high tariff on manufactured articles. Bill subjects our farmers to unfair competition of cheap Canadian farm lands. Will greatly injure farming industry. Will increase farm values in Canada and reduce value of farms in this country. Farmers unanimously opposed to bill.

M. J. BATCHELDER,
AARON JONES,
T. C. ATKESON,
Legislative Committee National Grange, Concord, N. H.

Mr. McCUMBER. I present a resolution from the national organization of the American Society of Equity and a resolution from the Kentucky organization. I ask that they may be read. They are very short.

There being no objection, the resolutions were read, as follows:

Resolution of the American Society of Equity, at Indianapolis, Ind.

Whereas it has come to our attention that an attempt is being made to form a sort of exchange or reciprocity treaty between the United States and Canada; and

Whereas such treaty would be a great benefit to special interests and detrimental to the farmers of the Northwest, and even of the United States: Therefore be it

Resolved, That the American Society of Equity, an organization of farmers of the United States in convention assembled at Indianapolis, Ind., November 15, 1910, desires to register an emphatic protest against any such action, and that the national union is hereby instructed to transmit a copy of this resolution to each State union for approval and further action.

Resolution passed at the Kentucky State meeting.

Whereas it has come to our attention that by certain commercial and manufacturing interests effort is being made to have Congress suspend the duty on barley until the 1st of September next when the next crop of barley will be ready for market; and

Whereas that will make it possible to flood the country with barley from foreign countries and glut the market for the barley growers of our own country: Therefore be it

Resolved by the members of the American Society of Equity in Kentucky in annual State convention assembled this 12th day of January, 1911, That we ask all our Congressmen to vote against the proposed temporary suspension of the duty on barley.

On motion, was unanimously adopted.

The VICE PRESIDENT. The resolutions will be referred to the Committee on Foreign Relations.

Mr. McCUMBER. I do not know that it makes any difference where they are referred now, but I assume that they will finally come before the Committee on Finance.

The VICE PRESIDENT. The Chair so assumes; but the message of the President has been referred for the time being to the Committee on Foreign Relations, and the Chair thought that communications having reference thereto ought to follow that reference for the present.

Mr. McCUMBER. I think the Chair is right.

I also present a resolution of the National Grange. They have already been read, being a mere copy of the resolution presented to the Senate by the Senator from New Hampshire [Mr. GALLINGER]. I ask that, without reading, it may be printed in the RECORD, following the other resolutions.

There being no objection, the resolution was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

NEW YORK, *February 4, 1911.*

Hon. PORTER J. MCCUMBER,
1534 Twenty-second Street, Washington, D. C.:

The National Grange earnestly protests against Canadian reciprocity bill, which puts farm products on free list while making practically no reduction in high tariff on manufactured articles. Bill subjects our farmers to unfair competition of cheap Canadian farm lands. Will greatly injure farming industry. Will increase farm values in Canada and reduce value of farms in this country. Farmers unanimously opposed to bill.

M. J. BATCHELDER,
AARON JONES,
T. C. ATKESON,
Legislative Committee National Grange, Concord, N. H.

Mr. NELSON. I present a resolution of the Commercial Club of Elbow Lake, Minn., relating to Canadian reciprocity. It is very short. I ask that it may be read and referred to the Committee on Finance.

There being no objection, the resolution was read, as follows:

At a meeting of citizens of Elbow Lake and vicinity, January 28, 1911, under the auspices of the Commercial Club, the following resolution was unanimously adopted:

Whereas there is pending in the Congress of the United States a tariff reciprocity agreement which, if confirmed by Congress, will admit free of duty Canadian farm products, such as wheat, rye, oats, barley, flaxseed, cattle, hogs, sheep, horses, and all other animals, including poultry both dead and alive, and also butter, cheese, milk, cream, eggs, honey, beans, peas, potatoes, carrots, turnips, and all vegetables, including onions; while the duty is retained on all manufactured products, as, for instance, on binders, mowers, plows, and other farm implements the tariff is 15 per cent; and hay loaders, hay tedders, rollers, and windmills are taxed 20 per cent; and

Whereas all the advantages that the farmer now enjoys under the present protective tariff will be, by the proposed reciprocity agreement, swept away and the farmer will receive no benefit in return: Therefore be it

Resolved, That we are strenuously opposed to the proposed agreement, and that we earnestly urge our Senators, Hon. KNUTE NELSON and Hon. MOSES E. CLAPP, and our Representative, Hon. A. J. VOLSTEAD, to prevent the confirmation of the agreement; and that we further request our senator and representatives in the Minnesota Legislature, Hon. Edward Rustad, Hon. Lewis C. Spooner, and Hon. J. E. Peterson, to present the matter to the legislature in appropriate form, that the legislature may pass a resolution opposing the reciprocity agreement and memorialize Congress not to confirm the same.

The VICE PRESIDENT. Unless the Senator from Minnesota especially desires it, the Chair will refer the resolution to the Committee on Foreign Relations, which now has the agreement before it.

Mr. NELSON. Very well; I am satisfied with that reference. I presume it will be referred by that committee to the Committee on Finance.

The VICE PRESIDENT. Eventually, the Chair assumes, it will be so referred.

Mr. HALE. Of course, the whole subject should, in the end, go to the Committee on Finance. The Ways and Means Committee in the House have it under consideration. I learn from members of the Committee on Foreign Relations that the plan is to send all the papers, the whole subject matter, to the Committee on Finance at an early day. Therefore I do not object to the temporary reference.

Mr. CULLOM. It is understood that the matter will finally get to the Committee on Finance, but it is now in the hands of the Foreign Relations Committee, and it will stay there for the present, at least until we see whether the House is going to act upon it.

Mr. HALE. What is the force of the Senator's observation that it will finally get to the Committee on Finance?

Mr. CULLOM. The force of the observation is that it will naturally be considered by the Finance Committee, being in the nature of a tariff bill, as a matter of fact.

Mr. HEYBURN. It has occurred to me that it would be unfortunate if these petitions should eventually find themselves in the same pigeonhole with the petitions from this same organization when we were revising the tariff. There might be a serious conflict, and it ought to be avoided.

Mr. NELSON presented a petition of sundry railway postal clerks of the tenth division, in the State of Minnesota, praying that an investigation be made into the conditions existing and complained of in the Railway Mail Service, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Glenwood Lodge, No. 2055, Modern Brotherhood of America, of Glenwood, Minn., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented petitions of Local Lodge No. 957, of Stillwater, and of Local Lodge No. 361, of Duluth, of the American Federation of Labor, in the State of Minnesota, praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. DU PONT presented petitions of Dagsboro Council, of Dagsboro; Farmington Council, of Farmington; and Stars and Stripes Council, of Smyrna, all of the Junior Order United American Mechanics, in the State of Delaware, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. SHIVELY. I present a telegram from the Democratic Editorial Association, of Indianapolis, Ind., which I ask may be printed in the RECORD and referred to the Committee on Post Offices and Post Roads.

There being no objection, the telegram was referred to the Committee on Post Offices and Post Roads and ordered to be printed in the RECORD, as follows:

INDIANAPOLIS, IND., *February 3, 1911.*

Hon. B. F. SHIVELY, *Washington, D. C.:*

The Democratic Editorial Association unanimously passed a resolution to-day requesting you to use all honorable means to have the Nelson-Tou Velle bill reported to the Senate and passed.

C. J. ARNOLD, *Secretary.*

Mr. SHIVELY presented a memorial of the board of trustees of the Indiana State Prison, Michigan City, Ind., remonstrating against the enactment of legislation to limit the sale of prison-made goods to the State in which they are manufactured, which was referred to the Committee on Manufactures.

He also presented a petition of Tippecanoe Lodge, No. 36, Brotherhood of Locomotive Firemen and Enginemen, of La Fayette, Ind., praying for the enactment of legislation authorizing the closing on Sunday of the post offices of the country, which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of Post Q, Indiana Division, Travelers' Protective Association of America, of New Albany, Ind., remonstrating against the passage of the so-called rural parcels-post bill, and praying for the enactment of legislation establishing a 1-cent rate of letter postage, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Columbus Council, No. 20, Junior Order United American Mechanics, of Columbus, Ind., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

He also presented a memorial of the National Grange, Patrons of Husbandry, of Concord, N. H., remonstrating against the ratification of the Canadian reciprocity agreement, which was referred to the Committee on Foreign Relations.

Mr. SMITH of South Carolina. I present a concurrent resolution of the Legislature of South Carolina, which I ask to have read.

There being no objection, the concurrent resolution was read and ordered to lie on the table, as follows:

Be it enacted by the house of representatives (the senate concurring):

SECTION 1. That it is the sense of the General Assembly of the State of South Carolina that the Constitution of the United States relative to the election of United States Senators be so amended as to provide for their election by a direct vote of the people of each State.

SEC. 2. That a copy of this resolution be furnished each Member of Congress from South Carolina.

IN THE HOUSE,
Columbia, S. C., January 24, 1911.

The house agrees to the resolution and orders that it be sent to the senate for concurrence.

By order of the house.

JAS. A. HOYT, *Clerk of the House.*

IN THE SENATE,
Columbia, S. C., January 24, 1911.

The senate agrees to the resolution and orders that it be returned to the house with concurrence.

By order of the senate.

M. M. MANN, *Clerk of the Senate.*

Mr. KEAN presented a petition of Local Union No. 1532, United Brotherhood of Carpenters and Joiners, of Camden, N. J., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presened a petition of Central Division No. 157, Brotherhood of Locomotive Engineers, of Jersey City, N. J., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Editorial Association of New Jersey, praying for the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which was referred to the Committee on Post Offices and Post Roads.

He also presented petitions of John L. Conklin, of Westwood; of John H. Van Derveer, of Chester; of Cyrus E. Cook, of Mount Arlington; of Hexamer Post, No. 34, Grand Army of the Republic, of Newark; and of Phil Sheridan Post, No. 110, Grand Army of the Republic, of Newark; all in the State of New Jersey, praying for the passage of the so-called old-age pension bill, which were referred to the Committee on Pensions.

He also presented a petition of the Woman's Literary Club of Bound Brook, N. J., and a petition of the Children's Aid and Protective Society of the Oranges, of New Jersey, praying for the passage of the so-called children's bureau bill, which were ordered to lie on the table.

He also presented petitions of Washington Camps No. 78, of Elizabeth; No. 85, of Red Bank; No. 35, of Delanco; No. 64, of Phillipsburg; No. 29, of Merchantville; No. 7, of Trenton; No. 139, of Columbus; No. 148, of Succasunna; No. 136, of Cedarville; No. 11, of Millington; and No. 3, of Phillipsburg, all of the Patriotic Order Sons of America; of Hollywood Council, No. 29, Junior Order United American Mechanics, of

Long Branch; and of Local Union No. 575, Waiters' Union of Jersey; all in the State of New Jersey, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. BURKETT. I present a communication from the chief clerk of the house of representatives of the State of Nebraska, which I ask may be printed in the RECORD and referred to the Committee on Industrial Expositions.

There being no objection, the communication was referred to the Committee on Industrial Expositions and ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CHIEF CLERK,
Lincoln Nebr., January 19, 1911.

Hon. E. J. BURKETT,
United States Senate, Washington D. C.

DEAR SIR: Because of the action of the house of January 18 in rescinding its action of the previous day, which declared in favor of New Orleans as the proper site for the holding of the Panama-American exposition, I wish to apprise you that the matter is now in the hands of a committee appointed by the speaker to determine and recommend to the house its views upon this important matter. At this time there is no certainty that any further action will be taken for several days.

Very respectfully, HENRY C. RICHMOND, *Chief Clerk.*

Mr. BURKETT. I present a communication from the chief clerk of the house of representatives of the State of Nebraska, which I ask may be printed in the RECORD and referred to the Committee on Industrial Expositions.

There being no objection, the communication was referred to the Committee on Industrial Expositions and ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CHIEF CLERK,
Lincoln, Nebr., January 26, 1911.

Hon. E. J. BURKETT,
United States Senator, Washington, D. C.

DEAR SIR: I have the honor to state that the house this day by an overwhelming vote decided not to go on record in favor of any site as a suitable site for the holding of the Panama-American exposition in 1915.

Very respectfully, HENRY C. RICHMOND, *Chief Clerk.*

Mr. BURKETT presented a petition of the Central Labor Union of Lincoln, Nebr., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

He also presented a petition of Local Union No. 109, Brotherhood of Painters, Decorators, and Paperhangers, of Omaha, Nebr., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Banner Post, No. 308, Department of Nebraska, Grand Army of the Republic, of South Sioux City, Nebr., and a petition of sundry citizens of Shickley and Syracuse, Nebr., praying for the passage of the so-called old-age pension bill, which were referred to the Committee on Pensions.

He also presented a petition of Division No. 88, Brotherhood of Locomotive Engineers, of North Platte, Nebr., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post Offices and Post Roads.

Mr. SCOTT presented a petition of William Green Post, No. 33, Department of West Virginia, Grand Army of the Republic, of West Union, W. Va., and a petition of Andrew Mather Post, No. 14, Department of West Virginia, Grand Army of the Republic, of Parkersburg, W. Va., praying for the passage of the so-called old-age pension bill, which were referred to the Committee on Pensions.

He also presented petitions of Washington Camp No. 22, of Berkeley Springs, and Washington Camp No. 32, of Capon Bridge, of the Patriotic Order Sons of America; of Potomac Valley Council, of Blaine; of Enterprise Council, of Keyser; and of the Local Council, of Berkeley Springs, all of the Junior Order United American Mechanics, in the State of West Virginia, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. SUTHERLAND presented a memorial of sundry citizens of Woods Cross, Utah, and a memorial of sundry citizens of Ogden, Utah, remonstrating against the passage of the so-called parcels-post bill, which were referred to the Committee on Post Offices and Post Roads.

Mr OLIVER presented petitions of Local Posts Nos. 54, of Coatesville; 172, of Tyrone; 37, of York; and 124, of East Smithfield; all of the Grand Army of the Republic, in the State of Pennsylvania, praying for the passage of the so-called old-age pension bill, which were referred to the Committee on Pensions.

He also presented a petition of Company E, Fourteenth Regiment Infantry, Pennsylvania National Guard, of Pittsburg, Pa., praying for the enactment of legislation granting pay to members of the National Guard for attendance at drills, which was referred to the Committee on Military Affairs.

He also presented a petition of the Window Glass Workers' Union, of Point Marion, Pa., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

He also presented petitions of Local Branch No. 95, of Breckenridge, and Local Branch No. 120, of Clarion, Glass Bottle Blowers' Association, and of the Lithographers' International and Protective Beneficial Association, of Pittsburg, all in the State of Pennsylvania, praying for the repeal of the present oleomargarine law, which were referred to the Committee on Agriculture and Forestry.

Mr. BURNHAM presented a memorial of the National Grange, Patrons of Husbandry, remonstrating against the ratification of the proposed reciprocity agreement with Canada, which was referred to the Committee on Foreign Relations.

He also presented a petition of Rockingham Council, Junior Order United American Mechanics, of North Salem, N. H., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. HEYBURN presented a memorial of 34 citizens of McCammon, Idaho, remonstrating against the passage of the so-called parcels-post bill, which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of sundry citizens of Murray, Idaho, remonstrating against the passage of the so-called rural parcels-post bill, which was ordered to lie on the table.

Mr. PERKINS presented a memorial of the National Grange, Patrons of Husbandry, remonstrating against the ratification of the proposed reciprocity agreement with Canada, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Chamber of Commerce of Los Angeles, Cal., praying for the enactment of legislation to provide for the leasing of coal mines and coal lands in the Territory of Alaska, which was ordered to lie on the table.

He also presented a petition of sundry citizens of San Francisco, Cal., praying that the battleship *New York* be constructed in a Government navy yard, which was referred to the Committee on Naval Affairs.

He also presented a petition of Local Lodge No. 1209, Modern Brotherhood of America, of Eureka, Cal., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Chamber of Commerce of Los Angeles, Cal., praying for the enactment of legislation providing for the reorganization of the Consular Service, which was referred to the Committee on Foreign Relations.

Mr. HALE presented a petition of the Woman's Literary Union, of Androscoggin County, Me., praying for the enactment of legislation providing for an investigation into the condition of dairy products for the prevention and spread of tuberculosis, which was referred to the Committee on Agriculture and Forestry.

Mr. PAGE presented a petition of General Stark Council, Junior Order United American Mechanics, of Springfield, Vt., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. FLINT presented a petition of Golden City Lodge, No. 504, International Association of Machinists, of San Jose, Cal., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

He also presented a memorial of the Twentieth Century Club, of San Francisco, Cal., remonstrating against the imprisonment of persons without trial for political reasons, which was referred to the Committee on the Judiciary.

Mr. RAYNER presented a petition of the Christian Endeavor Union of Baltimore, Md., praying for the enactment of legislation to prohibit the transmission of race-gambling bets, which was referred to the Committee on the Judiciary.

He also presented petitions of Local Councils of Oakland, Baltimore, Towson, Preston, Lonaconing, Jefferson, Myersville, Havre de Grace, all of the Junior Order United American Mechanics; and of Local Camps Nos. 63, 72, 16, 8, and 13, all of the Patriotic Order Sons of America, in the State of Maryland, praying for the enactment of legislation to further restrict immigration, which were referred to the Commitee on Immigration.

Mr. STEPHENSON presented a petition of the Common Council of Superior, Wis., praying for the ratification of the reciprocity agreement between the United States and Canada, which was referred to the Committee on Foreign Relations.

He also presented a petition of sundry railway postal clerks, of the tenth division of Wisconsin, praying that an investigation be made into the existing conditions complained of in the Railway Postal Service, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Local Union No. 13039, Bridge Tenders' Protective Union, of Milwaukee, Wis., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

REPORTS OF COMMITTEES.

Mr. LODGE, from the Committee on Foreign Relations, to which was referred the bill (S. 10171) to amend an act entitled "An act to provide for the reorganization of the Consular Service of the United States," reported it with amendments and submitted a report (No. 1071) thereon.

Mr. McCUMBER, from the Committee on Pensions, to which was referred the bill (H. R. 31172) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, reported it without amendment and submitted a report (No. 1072) thereon.

Mr. FLETCHER, from the Committee on the District of Columbia, to which was referred the joint resolution (S. J. Res. 82) directing that a portion of square 857, in the city of Washington, D. C., be reserved for use as an avenue and improved, reported it without amendment and submitted a report (No. 1073) thereon.

Mr. MARTIN, from the Committee on Commerce, to which was referred the bill (S. 10594) to authorize S. G. Guerrier, of Atchison, Kans., to construct a bridge across the Missouri River near the city of Atchison, Kans., reported it without amendment and submitted a report (No. 1074) thereon.

Mr. CHAMBERLAIN, from the Committee on Public Lands, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 9268) releasing the claim of the United States Government to that portion of land being a fractional block bounded on the north and east by Bayou Cadet, on the west by Cevallos Street, and on the south by Intendencia Street, in the old city of Pensacola (Rept. No. 1075);

A bill (S. 8736) providing for the releasing of the claim of the United States Government to arpent lot No. 44, in the old city of Pensacola, Fla. (Rept. No. 1076);

A bill (S. 8358) providing for the releasing of the claim of the United States Government to arpent lot No. 87, in the old city of Pensacola, Fla. (Rept. No. 1077); and

A bill (S. 9269) releasing the claim of the United States Government to lot No. 306, in the old city of Pensacola (Rept. No. 1078).

He also, from the Committee on Irrigation and Reclamation of Arid Lands, to which was referred the bill (S. 6878) to authorize the acquisition of lands by the Reclamation Service by exchange, and for other purposes, reported it without amendment and submitted a report (No. 1079) thereon.

Mr. BULKELEY, from the Committee on Military Affairs, to which was referred the bill (H. R. 26018) for the relief of James Donovan, reported adversely thereon, and the bill was postponed indefinitely.

Mr. THORNTON, from the Committee on Naval Affairs, to which was referred the bill (S. 10342) providing for the appointment of an additional professor of mathematics in the Navy, reported it with amendments and submitted a report (No. 1081) thereon.

Mr. BRANDEGEE, from the Committee on the Judiciary, to which was referred the bill (H. R. 23015) to protect the dignity and honor of the uniform of the United States, reported it with amendments and submitted a report (No. 1080) thereon.

Mr. KEAN, from the Committee on Claims, to which was referred the bill (S. 9270) for the relief of Frank W. Hutchins, reported it with amendments and submitted a report (No. 1082) thereon.

Mr. JOHNSTON, from the Committee on Military Affairs, to which was referred the bill (S. 10348) to cede and sell to the city of Fort Smith, State of Arkansas, a municipal corporation, a portion of a tract of ground adjoining the national cemetery in said city of Fort Smith, State of Arkansas, as described in the act herein, reported it with amendments and submitted a report (No. 1083) thereon.

PANAMA CANAL BONDS AND NATIONAL-BANK NOTES.

Mr. SMOOT. From the Committee on Finance, I report back favorably, without amendment, the bill (S. 10456) to restrain the Secretary of the Treasury from receiving bonds issued to provide money for the building of the Panama Canal as security for the issue of circulating notes to national banks, and for other purposes. I ask unanimous consent for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to insert in the bonds to be issued by him under section 39 of an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, a provision that such bonds shall not be receivable by the Treasurer of the United States as security for the issue of circulating notes to national banks, and that the bonds containing such provision shall not be receivable for that purpose.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NATHAN STRAUS PASTEURIZED MILK LABORATORY.

Mr. GALLINGER. From the Committee on the District of Columbia I report back with an amendment in the nature of a substitute the bill (S. 9716) to authorize the acceptance by the United States of the gift of the Nathan Straus pasteurized milk laboratory, and I submit a report (No. 1070) thereon.

I will state, Mr. President, that this bill has the indorsement of the Committee on the District of Columbia, of the Public Health and Marine-Hospital Service, and of the Treasury Department, under which that service is conducted. Believing it to be a matter of great public concern, I ask immediate consideration for the bill.

There being no objection, the Senate, as in Committee of the Whole proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to accept from Nathan Straus, in behalf of the United States, the Nathan Straus Pasteurized Milk Laboratory, established by said Nathan Straus in May, 1910, and since said date operated at his expense at 1319 H Street NW., Washington, D. C., including the unexpired portion of the lease of the said premises for which the said Nathan Straus is bound, and to conduct and operate said laboratory work as a part of the Public Health and Marine-Hospital Service; and the sum of $15,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be immediately available and to continue available until and including June 30, 1912, for the maintenance of said laboratory, including the purchase of milk and other necessary materials, employment of personal services, rent, hire, or purchase and maintenance of transportation, supplies, and all other necessary incidental and contingent expenses to be expended with the approval of the Secretary of the Treasury, under the supervision and control of the Surgeon General of the Public Health and Marine-Hospital Service, for the purpose of investigating the practical utility of infants' milk depots in the reduction of infant mortality, the relative value of pasteurized and raw milk for infant feeding, and for other appropriate scientific purposes; and the Secretary of the Treasury is hereby authorized to exercise such control and supervision over the laboratory and the distribution of its products as will, in his judgment, best carry out the purposes of this act; and he may, in his discretion, give or sell the said products, at prices to be fixed by him, to such responsible individuals, associations, institutions, or others as will distribute or use them under such conditions and regulations as the Surgeon General of the Public Health and Marine-Hospital Service, with the approval of the Secretary of the Treasury, may make; and any sum realized from the sale of said products shall be applied to the maintenance and other expenses of the said laboratory, in addition to the appropriation therefor herein made.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CUMMINS (for Mr. YOUNG):

A bill (S. 10664) granting an increase of pension to Michael McMahon (with accompanying papers);

A bill (S. 10665) granting an increase of pension to Emma Howe (with accompanying paper);

A bill (S. 10666) granting an increase of pension to William H. Tout (with accompanying papers); and

A bill (S. 10667) granting an increase of pension to Ross Wheatley (with accompanying papers); to the Committee on Pensions.

By Mr. BURNHAM:

A bill (S. 10668) to satisfy certain claims against the Government arising under the Navy Department; to the Committee on Claims.

By Mr. DICK:
A bill (S. 10669) granting an increase of pension to John Turner; and
A bill (S. 10670) granting an increase of pension to John W. Phillips (with accompanying paper); to the Committee on Pensions.
By Mr. DEPEW:
A bill (S. 10671) for the relief of Frank I. Willis; to the Committee on Military Affairs.
A bill (S. 10672) granting an increase of pension to Sarah Agnes Earl; and
A bill (S. 10673) granting an increase of pension to Anna H. Fitch (with accompanying papers); to the Committee on Pensions.
By Mr. GALLINGER:
A bill (S. 10674) granting an increase of pension to Andrew J. Fogg (with accompanying papers); to the Committee on Pensions.
By Mr. DILLINGHAM:
A bill (S. 10675) to amend the immigration laws relative to alien seamen and stowaways; to the Committee on Immigration.
By Mr. MARTIN:
A bill (S. 10676) to authorize the Virginia Iron, Coal & Coke Co. to build a dam across the New River near Foster Falls, Wythe County, Va.; to the Committee on Commerce.
By Mr. FRAZIER:
A bill (S. 10677) to authorize the county of Hamilton, in the State of Tennessee, to construct a bridge across the Tennessee River; to the Committee on Commerce.
By Mr. FLETCHER:
A bill (S. 10678) granting an increase of pension to Nancy J. Stafford; to the Committee on Pensions.
By Mr. JONES (by request):
A bill (S. 10679) to amend the national banking law; to the Committee on Finance.
By Mr. PAGE:
A bill (S. 10680) granting an increase of pension to Harriet B. Nichols (with accompanying papers); to the Committee on Pensions.
A bill (S. 10681) for the relief of Victor Beaulac and others; to the Committee on Claims.
By Mr. GUGGENHEIM:
A bill (S. 10682) to carry into effect the findings of the military board of officers in the case of George Ivers, administrator; to the Committee on Claims.
By Mr. BURKETT:
A bill (S. 10683) granting an increase of pension to Oracle Shores (with accompanying papers); to the Committee on Pensions.
By Mr. FLINT:
A bill (S. 10684) for the relief of the Commercial Pacific Cable Co.; to the Committee on Claims.
By Mr. RAYNER:
A bill (S. 10685) for the relief of the Sanford & Brooks Co.; to the Committee on Claims.
By Mr. BOURNE:
A bill (S. 10686) granting an increase of pension to Jen Rody Chauncey; to the Committee on Pensions.
By Mr. CLAPP:
A bill (S. 10687) granting an increase of pension to Mary White (with accompanying papers); and
A bill (S. 10688) granting a pension to Mrs. John Brown (with accompanying paper); to the Committee on Pensions.
By Mr. DIXON:
A bill (S. 10689) granting an increase of pension to Otis T. Johnson; to the Committee on Pensions.
By Mr. SMITH of Michigan:
A bill (S. 10690) providing for aids to navigation along the Livingstone Channel, Detroit River, Mich.; to the Committee on Commerce.

CONFEDERATE VETERANS' REUNION, LITTLE ROCK, ARK.

Mr. CLARKE of Arkansas. I introduce a joint resolution and ask unanimous consent for its present consideration.

The joint resolution (S. J. Res. 140) authorizing the Secretary of War to loan certain tents for the use of the Confederate Veterans' Reunion, to be held at Little Rock, Ark., in May, 1911, was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That the Secretary of War be, and is hereby, authorized to loan, at his discretion, to the executive committee of the Confederate Veterans' Reunion, to be held at Little Rock, Ark., in the month of May, 1911, such tents, with necessary poles, ridges, and pins, as may be required at said reunion: *Provided*, That no expense shall be caused the United States Government by the delivery and return of said property, the same to be delivered to said committee designated at such time prior to the holding of said reunion as may be agreed upon by the Secretary of War and William M. Kavanaugh, general chairman of said executive committee: *And provided further*, That the Secretary of War shall, before delivering such property, take from said William M. Kavanaugh a good and sufficient bond for the safe return of said property in good order and condition and the whole without expense to the United States.

The VICE PRESIDENT. The Senator from Arkansas asks unanimous consent for the present consideration of the joint resolution.

Mr. SMOOT. I should like to ask the Senator from Arkansas whether the joint resolution has been considered by any committee?

Mr. CLARKE of Arkansas. It is, word for word, a copy of a joint resolution which was passed here some time since, after discussion in reference to it. It properly safeguards the interests of the Government by providing that no expense shall be incurred.

Mr. SMOOT. This particular joint resolution did not heretofore pass, but a joint resolution for a similar purpose, as I understand?

Mr. CLARKE of Arkansas. A joint resolution for similar purposes has been previously passed, and, as I have said, this is, word for word, a copy of that joint resolution.

Mr. ROOT. Mr. President, this joint resolution is similar to joint resolutions which have been frequently passed in former years. I can not conceive of any objection to it.

Mr. CLARKE of Arkansas. I am not familiar with any other resolutions except the one to which I have referred.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment.

Mr. HEYBURN. Mr. President, I desire an opportunity to vote in the negative on the joint resolution.

The VICE PRESIDENT. The question is on the engrossment and third reading of the resolution.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MARTIN submitted an amendment proposing to appropriate $150,000 for the acquirement by the Secretary of War of certain lands at Cape Henry, Va., etc., intended to be proposed by him to the fortification appropriation bill, which was referred to the Committee on Coast Defenses and ordered to be printed.

Mr. OLIVER submitted an amendment proposing to appropriate $23,057.89 to reimburse the Pennsylvania Railroad Co. for expenses incurred by it in the enforcement of the order of the Secretary of Agriculture proclaiming a quarantine in the States of Pennsylvania and New York against certain animals, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $16,037.02 to reimburse the Lehigh Valley Railroad Co. for expenses incurred by it in the enforcement of the order of the Secretary of Agriculture proclaiming a quarantine in the States of Pennsylvania and New York against certain animals, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SCOTT submitted an amendment providing for the purchase of a reservation for a public park in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. DEPEW submitted an amendment providing that hereafter any employee in the service of the United States who shall have contracted within his or her service tuberculosis, etc., shall be granted three-fourths of their respective wage or salary by the department concerned while undergoing treatment for recovery, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WITHDRAWAL OF PAPERS—LEWIS W. CRAIN.

On motion of Mr. FLINT, it was

Ordered, That Lewis W. Crain be authorized to withdraw from the files of the Senate all papers accompanying Senate bill No. 440, Sixty-first Congress, first session, entitled "A bill to correct the military record of Lewis W. Crain," no adverse report having been made thereon.

BILLS OF EXCHANGE.

Mr. CULLOM submitted the following resolution (S. Res. 337), which, with the accompanying paper, was referred to the Committee on Printing.

Resolved, That there be printed for use of the American commissioner to the International Conference on Bills of Exchange held at The Hague during March, 1910, 400 copies of his report, which report was recently transmitted to Congress by the President.

INDIAN ALLOTTEES IN WISCONSIN.

Mr. CLAPP submitted the following resolution (S. Res. 338), which was considered by unanimous consent and agreed to:

Resolved, That Senate resolution No. 263, Sixtieth Congress, second session, be rescinded in so far as said resolution provides:

"*Be it further resolved*, That pending the final report of such committee and action thereon by Congress the Secretary of the Interior be requested to suspend the approval of any roll, the making of allotments, and the making of timber contracts for Indian allottees in the State of Wisconsin."

REPORT ON HOOKWORM IN PORTO RICO.

Mr. SMOOT. On February 1 the Senator from Florida [Mr. FLETCHER] reported from the Committee on Printing Senate resolution 336, relative to the printing as a Senate document of the report on hookworm in Porto Rico. The Public Printer finds that there are certain illustrations accompanying the report, and I ask that an order made for the printing of these illustrations.

There being no objection, the order was reduced to writing and agreed to, as follows:

Resolved, That the report entitled "Uncinariasis (hookworm) in Porto Rico: A Medical and Economic Problem, prepared under the direction of the Secretary of War in the Surgeon General's Office by Maj. Bailey K. Ashford, Medical Corps, United States Army, and Pedro Gutierrez Igaravidez, director of tropical and transmissible diseases, service of Porto Rico, members of the former Porto Rico-American Commission," be printed (with illustrations) as a Senate document (S. Doc. No. 808).

EMPLOYERS' LIABILITY AND WORKMEN'S COMPENSATION COMMISSION.

Mr. WARNER. Mr. President, I ask to be excused from further service on the commission created under public resolution 45 to investigate employers' liability and workmen's compensation. I make this request for the reason that my service on the commission will expire by termination of service in this body on the 4th of March next, and some other Senator should be appointed to take up this work.

The VICE PRESIDENT. Without objection, the request of the Senator from Missouri will be granted.

PRINTED MATTER ON STAMPED ENVELOPES.

Mr. PENROSE. I present a letter of the Postmaster General relative to what is known as the Tou Velle bill, and as the Committee on Post Offices and Post Roads is in receipt of many thousand petitions for and against this measure I ask unanimous consent that the letter be printed as a Senate document.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the order is made.

Mr. PENROSE. I am informed that the expense of printing 25,000 extra copies of this document will be under $500, and, provided I am not mistaken in that statement, I ask unanimous consent that 25,000 extra copies of the document be printed for the use of the Committee on Post Offices and Post Roads.

Mr. SMOOT. Under the law, of course, whenever a request is made to have documents printed there should be an estimate made of the cost. I ask the Senator from Pennsylvania whether he has had any estimate made.

Mr. PENROSE. I have not had an estimate made. It was simply to save time that I made the request, provided the cost does not exceed $500. I am informed that it will not exceed $500. It is a short document. But I will let it go over until later in the day that I may have an estimate made.

Mr. SMOOT. I would prefer to have it go over.

Mr. PENROSE. I am perfectly willing that it shall go over.

The VICE PRESIDENT. The motion will lie on the table for the present.

Mr. PENROSE. But the usual number of the document will be printed, of course.

Mr. SMOOT. I have no objection to its being printed as a Senate document.

The VICE PRESIDENT. That order was made. The request to print extra copies will go over for the present.

Mr. SMOOT subsequently said: Mr. President, the senior Senator from Pennsylvania [Mr. PENROSE] this morning requested the printing of 25,000 additional copies of a letter from the Postmaster General relative to the printing of certain matter on stamped envelopes. It was ordered to lie on the table until we could get an estimate from the Public Printer. I have that estimate, and the amount is $218.55. Therefore I have no objection that 25,000 additional copies be printed for the use of the Committee on Post Offices and Post Roads.

There being no objection, the order was reduced to writing and agreed to, as follows:

Ordered, That there be printed 25,000 additional copies of Senate Document No. 809, Sixty-first Congress, third session, "Merits of the Tou Velle bill," for the use of the Committee on Post Offices and Post Roads.

HEIRS OF CHARLES F. ATWOOD AND ZIBA H. NICKERSON.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 3897) for the relief of the heirs of Charles F. Atwood and Ziba H. Nickerson, which were, in line 4, to strike out "heirs" and insert "widow, child, or children;" in line 5, after "Massachusetts," to insert "the sum of two thousand dollars;" in line 5, after "and," to insert "of;" in line 6, after "Massachusetts," to insert "the sum of eight hundred and forty dollars;" in lines 6 and 7, to strike out all after "Department," down to and including "demise," in line 8; and in line 8, to strike out "sum" and insert "sums."

Mr. LODGE. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

JOHN B. LORD.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2045) for the relief of John B. Lord, owner of lot 86, square 723, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia.

Mr. GALLINGER. I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. GALLINGER, Mr. DILLINGHAM, and Mr. MARTIN conferees on the part of the Senate.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Claims:

H. R. 4107. An act for the relief of the legal representatives of Samuel Schiffer;

H. R. 12825. An act for the relief of Killian Simon;

H. R. 15566. An act for the relief of H. M. Dickson, William T. Mason, Dickson-Mason Lumber Co., and D. L. Boyd;

H. R. 18589. An act for the relief of W. F. Seaver;

H. R. 19756. An act for the relief of Michael B. Ryan, son and administrator de bonis non of John S. Ryan, deceased;

H. R. 26367. An act to pay certain employees of the Government for injuries received while in the discharge of duty;

H. R. 26606. An act for the relief of Charles A. Caswell;

H. R. 26607. An act for the relief of Richard W. Clifford; and

H. R. 32264. An act for the relief of Frances Coburn, Charles Coburn, and the heirs of Mary Morrisette, deceased.

The following bills were severally read twice by their titles and referred to the Committee on Naval Affairs:

H. R. 19010. An act authorizing proper accounting officers of the Treasury Department to reopen pay accounts of certain officers of the Navy; and

H. R. 24368. An act fixing the date of reenlistment of Gustav Hertfelder, first-class fireman, United States Navy.

The following bills were severally read twice by their titles and referred to the Committee on Indian Affairs:

H. R. 24434. An act for the relief of Nah-me-won, aush-e-quay;

H. R. 24435. An act for the relief of Kay-zhe-bah, o-say; and

H. R. 31056. An act to ratify a certain lease with the Seneca Nation of Indians.

The following bills were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 25234. An act authorizing the issuance of a patent to certain lands to Charles E. Miller;

H. R. 25569. An act to authorize a patent to be issued to Margaret Padgett for certain public lands therein described;

H. R. 27069. An act to relinquish the title of the United States in New Madrid location and survey No. 2880;

H. R. 29300. An act authorizing the Secretary of the Interior to sell a certain 40-acre tract of land to the Masonic Order in Oklahoma;

H. R. 30727. An act providing for the sale of certain lands to the city of Buffalo, Wyo.; and

H. R. 31353. An act for the relief of F. W. Mueller.

H. R. 19577. An act for the relief of Frederick P. McGuire, trustee for Bessie J. Kibbey, owner of lot No. 75, square 628, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia, was read twice by its title and referred to the Committee on the District of Columbia.

SENATOR FROM ILLINOIS.

Mr. FLETCHER. Mr. President, I desire to give notice that immediately following the address of the Senator from Washington [Mr. JONES] to-morrow I shall submit some remarks on what is known as the Lorimer case.

FORTIFICATION OF PANAMA CANAL.

Mr. MONEY. Mr. President, I wish to give notice that on Wednesday next, after the conclusion of the morning business, I shall ask the consent of the Senate to take up the Senate resolution introduced by me on the 19th ultimo concerning the fortification of the Panama Canal, for the purpose of making some remarks thereon.

ELECTION OF SENATORS BY DIRECT VOTE.

The VICE PRESIDENT. Morning business is closed. The Chair lays before the Senate joint resolution 134, the title of which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 134) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. LODGE. Mr. President, in all history it would be difficult to find a more glaring contradiction than was presented by the existence of human slavery under a Government born of the Declaration of Independence and established by the Constitution of the United States. There was bitter truth in the sneer of our foreign critics who said that the well-known lines in our national song ought properly to be—

> And the star-spangled banner in triumph shall wave
> O'er the land of the free and the home of the *slave*.

And yet Lincoln in one of the greatest and most memorable speeches ever made referred to the Government under the Constitution as a Government of and for and by the people, and declared that the great conflict between the States would decide whether that Government should survive or should perish from the earth. The movement against slavery, which culminated in Lincoln's emancipation proclamation, never really became formidable until it had been taken up by men who carried on their fight for human liberty under the Constitution and in accordance with the laws. It was then demonstrated that under the Constitution it was possible to deal conclusively with this vast problem which went to the very root of our social and economic structure, which in its development endangered our national life, and which finally passed away in the smoke of battle through the war powers of the Constitution. Such an experience has always made me slow to believe that it was not possible to determine any question in the United States, no matter how mighty, which the times might bring forth, without rending and tearing the great instrument which called this Nation into being and under which it has grown great and prosperous beyond anything that the imagination of its makers could have conceived. That these new questions and problems, the offspring of changed conditions, have arisen, as they were sure to arise, and as others are equally sure to arise in the future, I for one have never doubted. At Chicago in 1908 I said:

> I have spoken of the seriousness of the situation with which the country was confronted. Its gravity can hardly be overestimated. It grew out of conditions and was the result of forces beyond the control of men. Science and invention, the two great factors in this situation, have not only altered radically human environments and our relations to nature, but in their application they have also revolutionized economic conditions. These changed economic conditions have in turn affected profoundly society and politics. They have led, among other things, to combinations of capital and labor on a scale and with a power never before witnessed. They have opened the way to accumulations of wealth in masses beyond the dreams of avarice and never before contemplated by men. The social and political problems thus created are wholly new. It is a fallacy to suppose that because the elements are old the problem itself must therefore differ only in degree from those which have gone before. The elements may be old, but the problem presented by a change in the proportion of the elements may be, and in this case is, entirely new. Great individual fortunes and rich men are, it is true, as old as recorded history. Nearly two thousand years ago the tax farmers of Rome formed a "trust" for their own profit and protection; the English people three centuries ago revolted against the patents and monopolies granted by Elizabeth and James to their courtiers and favorites; forestallers and speculators in the necessities of life were a curse in our Revolution and were bitterly denounced by Washington. Yet it is none the less true that the same things to-day present questions different in kind, as well as in degree, from their predecessors. It is the huge size of private fortunes, the vast extent and power of modern combinations of capital, made possible by the conditions, which have brought upon us in these later years problems portentous in their possibilities and threatening not only our social and political welfare, but even our personal freedom, if they are not boldly met and wisely solved.
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> The great body of the American people, neither very rich nor very poor, the honest, the thrifty, the hard working, the men and women who earn and save, have no base envy, no fanatic hatred of wealth, whether individual or corporate, if it has been honestly gained and is wisely and generously employed with a sense of responsibility to the public. But this great body of people, by habit and instinct alike wisely conservative, these people, who are the bone and sinew of our country, and upon whom its fortunes and its safety rest, began to observe with deep alarm the recent manifestations of the new economic conditions. More and more they came to believe that these vast fortunes and these huge combinations of capital were formed and built up by tortuous and dishonest means, and through a cynical disregard of the very laws which the mass of the people were compelled to obey. They began to fear that political power was being reft from their hands and put into possession of the money holders, that their dearest rights were in danger, that their hopes of success and advancement were cut off by business systems which they could not understand, but in which the individual was sacrificed and held down. To those who looked beneath the surface an ominous unrest was apparent. The violent counsels of violent men, who aimed at the destruction of property and the overthrow of law, began to be heard and hearkened to. The great order-loving, industrious masses of the American people turned away from these advocates of violence, but, at the same time, demanded that their Government should give them, in lawful and reasonable ways, the protection to which they were entitled against the dangers they justly apprehended.
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> The grave duty of fulfilling these righteous demands, like all the great public services of the last half century, was imposed upon the Republican Party, and it has not flinched from the burden. Under the lead of the President the Republican Party has grappled with the new problems born of the new conditions. It has been no light task. Dangerous extremes threatened on either hand. On the one side were the radicals of reaction, who resisted any change at all; on the other side were the radicals of destruction, who wished to change everything. These two forms of radicalism are as far apart at the outset as the poles, but when carried out they lead alike to revolution. Between these two extremes the Republican President and the Republican Congress were compelled to steer, and while they advanced steadily, soberly, and effectively, they were obliged to repel the radical assaults on either hand. Yet, notwithstanding all these difficulties, much has been accomplished. The response of the people to the policies urged by the President has been so emphatic that it has been made clear, once for all, that the Government of the United States is never to be dominated by money and financial interests, and that the political party which permits itself to be ruled by them is thereby doomed to defeat.
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> The policy of the Republican Party in dealing with these new and formidable questions, which have taken concrete form in enormous combinations of capital and in great public service corporations, has been formulated and determined. That policy is to use Government regulation and supervision for the control of corporations and combinations, so that these great and necessary instruments of commerce and business may be preserved as useful servants, and not destroyed because they have threatened to become dangerous masters. This policy is the absolute opposite of Government ownership and all like measures, which tend directly to socialism and to all its attendant miseries and evils. It is in pursuance of this policy, shaped and settled during the last few years, that old laws have been enforced and new ones enacted.

I believed then, as I believe now, that we have met the new questions with fresh solutions and the new dangers by new laws and that we shall continue in this course. Sane, intelligent progress is, in a government like ours, the first law of its being if that government is to prosper and endure. I am far from thinking that there is not more work to do, work which must be done now. There must, for example, be further protection against food adulterations and the sale of unfit and spoiled articles of food. We must deal with the question of child labor. Above all, we must protect the natural resources of the country from reckless and destructive consumption for the sake of immediate personal profit. We must see to it that our great inheritance is not further dissipated by this generation, which, like a spendthrift heir, careless of his children's future, seems ready to throw to the winds a vast and noble estate. But all these questions to which I have referred, and that which was more formidable than any of them, human slavery, have been dealt with under the Constitution of the United States. The Constitution has shown itself capable of adaptation to the new demands, as it has adapted itself to those of the past, and I have hoped and believed that the new policies and the necessary reforms which the people desire could all be brought about, as they have hitherto been accomplished, under the Constitution. I see no reason as yet to suppose that this belief is not well founded.

But new prophets have arisen who are not content with the reforms which have been and which will be effected by law and they demand that the Constitution itself shall be changed. Its success in the past, which has commanded the admiration of the world, is not to be considered as any plea in its behalf. It needs improvement, we are told, and the improvements must be made. Thoughtful writers in the monthly magazines and weekly journals; grave thinkers and serious students of government in public life, on the platform and in the lecture hall, are urging that the Constitution must be changed and improved in many directions. Their purpose, as I understand them to express it, is to restore popular government. Lincoln, who is, of course, as an authority on this particular point, quite antiquated, thought when he spoke at Gettysburg that popular government existed and would be preserved if the Union was saved. I suppose we may admit that he was probably right at that period, but that was a long time ago, and the loss of popular government, to the restoration of which so many able minds are now devoted, has occurred since the dedication of the burial ground on the greatest battlefield of the war.

In pursuance of this demand for a restoration of lost popular government by suitable amendments of the Constitution, this joint resolution has been reported from the Committee on the

Judiciary. I expected it to contain a single proposition, an amendment to the Constitution which would provide that henceforth Senators should be elected by the direct vote of the people. To my surprise I found that this resolution contained two amendments to the Constitution instead of one, and the second, which I confess has filled me with amazement, causes the change which was supposed to be the object of the resolution to sink into comparative insignificance. To take the election of Senators from the legislatures of the States and give it to a direct popular vote is simply a change in the mechanism of government. It does not touch the principles upon which the Government rests. In a speech which I made in Boston on the 3d of January last I said:

So far as the election of Senators by direct popular vote is a national question involving an amendment of the Constitution of the United States, as is well known, I have twice voted against such an amendment. In this I have not differed from the Republican Party, which in 1908, at the National Convention in Chicago, rejected a resolution favoring the direct election of Senators by a vote of 866 to 114.

I have agreed with the position taken by my former colleague, Senator Hoar, in his able and well-known argument on this question delivered in the Senate on the 6th of April, 1893. I was convinced that the provision of the Constitution framed by the makers of that great instrument, by which the popular will was to be expressed through the representatives of the people in the legislature, had been eminently successful in its results, had preserved the rights of the States as such, and had protected their equality and their integrity as well as their powers of local self-government which are so essential to the maintenance of government by and for the people.

But although that has been my conviction, and one that I can not make a pretense of changing without conscious intellectual dishonesty, I have never exaggerated the importance or the significance of the alteration proposed in regard to the election of Senators of the United States. Reduced to its simplest form, an amendment providing for the choice of Senators by direct popular election is merely a proposition to convert the Senate into a second House of Representatives, with two Congressmen at large from each State, who are to be called Senators and to hold office for six years. The only difference between these Senators and the Members of the House will be in the size of the constituency and in the greater length of the term, which from the point of view of those who advocate the amendment seems to me, strictly speaking, illogical.

We have had at different times and in almost every Congress Congressmen at large from one or more States. Although there have been many Members of the House of long and distinguished service, whose names are famous and familiar in our history, I do not associate them particularly with the office of Congressman at large. Those, who have given more attention to the subject than I, could, without doubt, easily and at once give a list of the eminent men who have served in that capacity as representatives of entire States. In the case of the Senate no special inquiry is needed. Every schoolboy can recite the names of Senators chosen by legislatures during the last hundred and twenty years whose ability and talents have adorned the annals of this body and been conspicuous in our history. It requires indeed but slight familiarity with the history of the United States to know that Clay, Webster and Calhoun, John Quincy Adams, Benton, Seward, and Sumner have been numbered among the great Senators of the United States, and in mentioning them I mention but a very few as examples of a very remarkable list. Whatever the cause, I think these Senators of whom I have spoken, and many others equally deserving of remembrance, will compare not unfavorably with the Congressmen at large who have represented States in the House of Representatives. I know, of course, that the past results of the system have but little bearing upon a reform which rests so wholly upon its abstract merits, but those results are not without a certain historic or antiquarian interest, and this must be my excuse for alluding to them. Possibly the secret of the high degree of character and ability shown for more than a century in a Senate selected by the system of the makers of the Constitution lies not in the method of election but in the length of the term, and I am bound to say that I think those who are engaged in the restoration of popular government ought to consider seriously the shortening of all terms of office. On the general principle that liberty is preserved by frequent elections we are all agreed, but to make a government really popular according to the conception of the new school of thought to which I have alluded, ought not all elections be much more frequent than they are?

In Rome the elections were annual and offices were multiplied, to the end that one elected officer might watch another, and yet despite this precaution it was the democracy of Rome which, after many trials, with Cæsar at its head, finally overthrew the old government, an intolerable oligarchy controlled by violence and money, and then under a thin veil of the ancient forms established the empire.

In medieval Florence, in their zeal for really popular government, they had elections every three months, and those elections were usually controlled by one man or one family. The city oscillated between these extreme forms of democratic government on the one side and personal domination on the other, until it sank at last under the permanent control of a single despot. It is quite true that neither in Rome nor in Florence did representative government, as we understand it, exist, and undoubtedly representative government has been the great barrier in modern times against precisely what happened in ancient Rome and medieval Florence. But if I rightly understand the advanced thinkers in the new school of constitutional thought, they believe that representative government should be, if not destroyed, reduced to the lowest terms of power and responsibility and that the principle of representation should be as far as possible obliterated by the conversion of the representatives into machines of record.

This suggestion as to the length of official terms has led me to digress from what I was trying to say, which is, if I may repeat, that the change in the method of electing Senators is a purely mechanical change. It may easily be the first step to radical change, to the destruction of the equality of the States in the Senate and to the consequent consolidation of the Government, but as it stands, in itself and by itself, it merely substitutes Congressmen at large for Senators. I should be glad to discuss this point further and much more fully were it not for the fact that the proposition which accompanies it is so much more important and far reaching. This second proposition is to take from the United States all power to regulate the time and manner of holding senatorial elections by striking out from the first paragraph of section 4 everything relating to the election of Senators. Not content with this, the resolution goes on to give affirmatively all control over the time, place, and manner of choosing Senators to the legislatures of the States. This change is not an alteration in the mechanism of the system; it strikes at the very foundation of the National Government, and it is to this proposition that I wish particularly to address myself.

Let me first say a word in regard to the men who framed the Constitution of the United States. It is the fashion just now to speak of them as worthy, able, and patriotic persons whom we are proud to have embalmed in our history, but toward whom no enlightened man would now think of turning seriously for either guidance or instruction, so thoroughly has everything been altered. It is commonly said that they dealt wisely and well with the problems of their day, but that of course they knew nothing of the problems which confront us, and that it would be worse than folly to be in any degree governed by the opinions of men who lived under such wholly different conditions. It seems to me that this view is partial and not wholly correct or complete. I certainly do not think that all wisdom died with our fathers, but I am quite sure that it was not born yesterday. I fully realize that in saying this I show myself to be old-fashioned, and I know that a study of history, which has been one of the pursuits of my life, tends to make a man give more weight to the teachings of the past than perhaps they deserve. Yet, after all allowance is made, I can not but feel that there is something to be learned from the men who established the Government of the United States and that their opinions, the result of much and deep reflection, are not without value, even to the wisest among us. There are, of course, many problems with which we are compelled to deal of which the framers of the Constitution had, and in the nature of things could have had, no knowledge. They were not called upon, for instance, to face questions of transportation or of railroads, because there were no railroads in 1787. They were not confronted with the problem of great combinations of capital, because there was then very little capital in the country, and what there was was not combined.

But at the same time they dealt with certain other problems which are as old as the race and they mastered certain conditions which exist to-day just as much as they existed then. On questions of this character, I think, their opinions are not to be lightly put aside, for, after all, however much we may now gently patronize them as good old patriots long since laid in their honored graves, they were none the less very remarkable men, who would have been eminent in any period of history and might even, if alive now, attain to distinction. I have glanced over the list of the delegates to the constitutional convention in Philadelphia in 1787. I find that their average age was 43, which is not an extreme senectitude, and the ages ranged from Franklin, who was 81, to John Francis Mercer, of Virginia, who was 28. Among the older men who were conspicuous in the convention were Franklin with his more than 80 years; Washington, who was 55; Roger Sherman, who was 66; and Mason and Wythe, of Virginia, who were both 61.

But when I looked to see who were the active forces in that convention I found that the New Jersey plan was brought forward by William Paterson, who was 42; that the Virginia plan was proposed by Edmund Randolph, who was 34; while Charles Pinckney, whose plan played a large part in the making of the Constitution, was only 29. The greatest single argument, perhaps, which was made in the convention was that of Hamilton, who was 30. The man who did as much as any other in the daily labors of the convention and who followed every detail was Madison, who was 36. The Connecticut Compromise was very largely the work of Ellsworth, who was 42; and the Committee on Style, which made the final draft, was headed by Gouverneur Morris, who was 35. Youth and energy, abounding hope, and the sympathy for the new times stretching forward into the great and uncharted future were conspicuous among the men who framed the Constitution of the United States.

These makers of the Constitution not only dealt with many conditions which are precisely the same to-day as they were then and which will be the same to-morrow—in other words, with conditions as old as recorded history—but they also met and settled certain questions in regard to which they had a peculiar and expert knowledge. They were, of course, deeply familiar with the causes which led to the dire necessity of framing a new Constitution if there was ever to be a Union of the States. They had seen the Continental Congress, whose state papers had extorted the admiration of Europe and drawn forth the praises of Chatham; which had declared independence, raised armies, and made alliances; they had seen this Congress decline into helplessness and discredit until it had become a heavier burden to Washington than the enemy in his front. They had seen the Confederation which the Continental Congress had established come into being, enjoy a sickly life, and finally sink into imbecility, while the States quarreled among themselves and domestic disorder began to rear its ugly head.

By all these disasters and misfortunes they were convinced that the fundamental cause of the failure of the Continental Congress and of the Confederation alike as schemes of government was that the Central Government had relations only with the States and was absolutely at their mercy. The makers of the Constitution met this difficulty by an arrangement at once bold and simple, scientifically sound and eminently practical. They established a Government which dealt not with the States, but directly with the people of the States. They brought the Central Government into immediate contact with the individual man. They created a real citizenship of the United States and thenceforth every American had a dual citizenship—that of his own State and that of the United States. It is not too much to say that among all the great solutions which these men presented for the difficult problems they were called upon to meet this was perhaps the most remarkable. It certainly was the most vital. It breathed the breath of life into the Government of the Constitution, and that principle of the direct relation between the people of the United States and the Central Government runs through every provision of the instrument.

In pursuance of this policy they provided that the United States should have the power, if the need arose, to arrange for or to regulate the election of Senators and Representatives and to provide for the time of choosing the presidential electors and for fixing the day on which the electors should give their votes; that day to be the same throughout the United States. That the United States should have this power in reserve was fundamental. No government can hope to live if it can not provide the means by which it lives, if it can not protect its own existence. It is this very power which this joint resolution proposes to destroy so far as it relates to the election of Senators. Not content with destruction, the resolution, as I have already said, by direct and affirmative words gives the whole control of the election of Senators to the several States. This plan violates the fundamental principle upon which the framers of the Constitution proceeded in establishing the Government, the principle without which they did not believe, and their belief was founded on bitter experience, that any government could possibly survive. It is now proposed to put the United States Government, so far as the election of Senators is concerned, at the mercy of the States. It is proposed to take from the United States any power to protect its own citizens in the exercise of their rights, no matter how great the need might be for such protection. If this amendment should become a law, twenty-three States, including perhaps only a minority of the population, could at any moment arrest the movement of the Government and stop all its operations. To change the mechanism of choosing Senators, or Presidents, or Representatives is a serious matter requiring careful consideration, but this new proposition strikes at the very root of the National Government. To call such a scheme as this progressive is a mockery; it is retrogression and reaction of an extreme kind. If adopted, it would carry the Government back to the controversies and the struggles out of which the Constitution was born and which beset and endangered the infancy of the United States. The framers of the Constitution, with a bitter experience and an intimate knowledge of what was needed to assure life and success to the Union of States, were at especial pains in the matter of presidential electors to provide that there should be uniformity in their election and in the time of their meeting. The reservation of paragraph one of section four in regard to Senators, which it is now proposed to erase, in like manner assured uniformity in senatorial elections. With that provision gone Senators, whether chosen by a legislature or by a direct popular vote, may be elected at any time and in any manner which the whim of any State may suggest. This absence of uniformity would of itself tend to throw our Government into confusion; yet the absence of uniformity is not comparable in importance to the fact that this proposed excision of the paragraph of the Constitution which reserves the right to regulate the election of Senators might endanger the very existence of the Government itself.

Self-preservation is the first law of Governments, as it is of nature, and it seems to me that no matter how we may decide the question of the methods by which Senators should be elected, the reservation of the power of the United States to control those elections, if need be, is essential to the Government's safe and continued existence. Any attempt of this sort to break down and weaken the authority of the United States ought to be resisted to the last. It is amazing that it should be suggested at a time like this, when the Government of the United States is of necessity taking up new duties and new obligations as demanded by the conditions of the time; at a moment when the National Government requires all its strength. And yet it is proposed here to weaken it, to take from it the one power which in the time of stress will assure its existence. I can not believe that such a proposition as this will be accepted by Congress. I can not believe that the country would tolerate it if it were once understood. Too much has been sacrificed to preserve the Union of the States and to maintain the National Government to permit any tampering with those clauses which guard its very life.

This question, which I have just discussed, was one in regard to which, as I have said, the makers of the Constitution had a peculiarly intimate knowledge. But they had also an unusual fitness for their task in every point of view. Their presiding officer was Washington, one of the great men of all time, who had led the country through seven years of war and of whom it has been said by an English historian that "no nobler figure ever stood in the forefront of a nation's life." There was Franklin, the great man of science, the great diplomatist, the great statesman and politician, the great writer; one of the most brilliant intellects of the eighteenth century, who, in his long life, had known cities and men as few others have ever known them. There was Hamilton, one of the greatest constructive minds that modern statesmanship has to show; to whose writings German statesmen turned when they were forming their Empire 40 years ago and about whom in these latter days books are written in England because they find in the principal author of the Federalist the great exponent of the doctrines of successful federation. There was Madison, statesman and lawmaker, wise, astute, careful, destined to be, under the Government which he was helping to make, Secretary of State and President. Roger Sherman was there, sagacious, able, experienced; one of the leaders of the Revolution and a signer of the Declaration of Independence, as he was of the Constitution. Great lawyers were present there in Philadelphia in that memorable summer of 1787; such men as Ellsworth and Wilson and Mason and Wythe. It was a very remarkable body which had assembled to frame a constitution for the United States. They were men of the world, men of affairs, soldiers, lawyers, statesmen, diplomatists, versed in history, widely accomplished, deeply familiar with human nature. They wished to establish a Republic. They knew that it was to be a democratic Republic. Some of them thought that the Constitution was too democratic; others felt that it was not democratic enough; but the instrument as adopted represented the general agreement of opinion. They had no doubt that they were establishing a popular representative system, a government of the people, by the people, and for the people, and when Lincoln saved the Union which they had founded he thought so too. We are now told that popular government has been lost in the half century which has elapsed since Lincoln's death; that "the interests" have taken possession of Congress and courts and Executives, and that the only escape is to be found in radically changing our organic law. That the great combinations of capital which have grown up in the last forty years—the moneyed interests

of the country—rose to great political power at one time and exercised such power to a dangerous degree is, I think, beyond question. The people became alarmed and aroused and intelligent persons were not lacking to take full advantage of this state of the public mind. In any event the outcome was what was to have been expected. The Government which, under the Constitution, had been able to face eleven powerful States in arms, to maintain the Union and abolish slavery, has proved abundantly able to check the influence of money, which is as dangerous as it is insidious, and to put an end to unwholesome political power in great combinations of capital, whether in transportation, industry, or finance. Any danger of the moneyed interests getting even partial control of the Government or acquiring undue political influence has been brought to an end in the last ten years. Just now, indeed, the financial, business, and corporate interests of the country seem far more concerned in trying to find out whether they are to be allowed to live and breathe than in seeking to control anybody else in politics or out of politics.

All this has been a great and important work. I have seen the moneyed interests in the plenitude of their political power and I have witnessed their political decline which has been reasonably complete. That particular peril of money taking control of the National Government will not, in my opinion, ever return. There is, as I have said, much important legislation to be passed, many most important reforms in administration and in the making and enforcement of laws to be effected, but the danger of the political domination of money has been met and put aside. It will never reappear unless it is invited to do so, and unless opportunity is made by constitutional changes like some of those now proposed for its reinstatement in political authority. All this has been accomplished, all the legislation regulating trusts and transportation and food production has been carried to enactment under the Constitution as it is.

The framers of the Constitution, I repeat, believed that they were making a popular government. It did not occur to them that they were destroying the popular quality of their work by ordaining that Presidents should be chosen by electoral colleges or Senators by legislatures, because those provisions were in their eyes only the mechanical part of the Government, were merely machinery devised, as they thought, to bring the best results, for in their old-time way they were much concerned about results. But there were other points about which they felt much more deeply, because they believed that there were certain principles upon which political freedom and personal liberty absolutely depended. One of these principles was that known as representative government. They believed in representative government and in checks and balances, so that there might be opportunity for reflection, a space for second thought, and no rash haste in reaching important decisions upon which the welfare of millions might depend. It seemed to them that universal experience showed that while people made laws and not laws people it was very easy to devise a constitution or adopt modes of government which no people could possibly make successful and which might be prolific of misfortune. In other words, as they looked at it, it was comparatively simple to make a government which was sure to fail and thus bring the country into the old vicious circle which ends in an army to keep order and a despot to command the army.

All history taught them that representative government, if it were to succeed, must give power and responsibility to the representative. A nominally representative body, stripped of responsibility and without proper power, was, so far as history showed, only a convenient machine for the registration of some one else's edicts. The unbroken lesson of history, much reenforced since 1787, was then, as it is now, that when representative government has been emasculated or destroyed political freedom and personal liberty have not long survived. So the framers of the Constitution guarded carefully the representative principle because they wished to preserve political freedom, just as they limited all governmental powers and established a system of checks and balances because they did not believe that any man or any men could safely be intrusted with unlimited power, or that it would ever be safe to make it possible to effect a great political change or make a momentous political decision without due deliberation.

In the constitution of my own State there is one clause of which I have always been very proud, because its concluding sentence contains, I think, one of the finest assertions of the most vital principle of free government ever made. It is as follows:

ART. 30. In the government of this Commonwealth the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws and not of men.

That is old; older than the Constitution of the United States; but it is as profoundly wise and true now as it was on the day it was penned. When that great doctrine of the government of laws is abandoned we shall have a government of men and the noble history of American freedom will close.

But there was one principle above all others about which the makers of the Constitution felt so strongly that at the time, I think, it was hardly questioned by anyone. That principle was the independence of the judiciary. Representative government and the independence of the judiciary were, in the opinion of the makers of the Constitution, the two great bulwarks of freedom. The conditions upon which they predicated this opinion, the reasons by which they were guided, are to be found in general principles and in the attributes of human nature, which are the same to-day as they were then.

At the present day a State preparing for admission to the Union has undertaken to frame a constitution which provides not only that judges shall be elected, but that they shall be subject to what is termed the "recall." Representative government would not only be changed but would be rendered impotent by a compulsory initiative and a compulsory referendum, yet it would live on in appearance at least and might regain a real existence; but the application of the recall to judges would destroy once and for all the independence of the judiciary. Once destroyed, centuries of bitter experience would be required to restore it as they were to establish it. This second alteration in our constitutional principles, as I am well aware, is not involved in this joint resolution, but it has been seriously proposed in a projected State constitution which may soon come before the President and Congress. I desire in closing to say a few words in regard to it, because this movement for the recall of judges whenever their decisions may displease any numerous or powerful portion of the community or any great financial interest seems to me to grow out of the theories of our new school of political and constitutional thought and to be more momentous in its consequences than anything that has yet been suggested.

I am very far from believing that our judicial system is perfect; nothing human, nothing that depends upon the action of man, can be. Not long ago the President of the United States said that the methods of legal procedure in some of the States were a disgrace to civilization, and I cordially agree with this view, especially when it is applied to the procedure in criminal cases. We suffer likewise from the delays of the law and from the multiplication of technical methods of postponing the final decision. But all these evils can be cured by legislation. They are not primarily the fault of the courts and that they continue to exist is wholly the fault of Congress and the State legislatures. They in no way affect the principle of the independence of the judiciary.

Again, let me say that criticism of a judicial decision, suitably and respectfully made, seems to me, and has always seemed to me, entirely proper. I have heard decisions of the Supreme Court debated and criticized in this Chamber, sometimes with very great ability, as when the Senator from Texas discussed here the income-tax decision. I think suitable criticism of judicial decisions, which is a very different thing from denunciation of the courts, is not only proper but very desirable when kept within the limits of discretion and good taste. But this again has no bearing on the question of the independence of the judiciary.

The men who framed the Constitution were much nearer to the time when there was no such thing as an independent judiciary than we are now. The bad old days, when judges did the bidding of the King, were much more vivid to them than to us. What is a commonplace to us was to them a recent and hardly won triumph. The fathers of some of those men—the grandfathers of all—could recall Jeffreys and the "Bloody Assize." They knew well that there could be no real freedom, no security of personal liberty, no justice, without independent judges. It was for this reason that they established the judiciary of the United States with a tenure which was to last during good behavior and made them irremovable except by impeachment. The Supreme Court then created and the judiciary which followed have excited the admiration of the civilized world. The makers of the Constitution believed that there should be no power capable of deflecting a judge from the declaration of his honest belief, no threat of personal loss, no promise of future emolument, which could be held over him in order to sway his opinion. This conviction was ingrained and born with them, as natural to them as the air they breathed, as vital as their personal honor. How could it have been otherwise? The independence of the judiciary is one of the great landmarks in

the long struggle which resulted in the political and personal freedom of the English-speaking people. The battle was fought out on English soil. If you will turn to the closing scenes of Henry IV, you will find there one of the noblest conceptions of the judicial office in the olden time ever expressed in literature. It was written in the days of the last Tudor or of the first Stuart, in the time of the Star Chamber, of judges who decided at the pleasure of the King, and when Francis Bacon, Lord Chancellor of England, took bribes or gifts. Yet lofty as is the conception, you will see that Shakespeare regarded the judge as embodying the person, the will, and the authority of the King. We all know how the first two Stuarts used the courts to punish their enemies and to prevent the assertion of political rights, which are now such commonplaces that the fact that they were ever questioned is forgotten. The tyranny of the courts was one of the chief causes that led to the great rebellion, and out of that great rebellion, when the third Stuart had been restored, came the habeas corpus act, which has done more to protect personal liberty than any act ever passed. Slowly but surely through the next hundred years the doctrine of the independence of the judiciary grew stronger and stronger, until finally it passed beyond the range of question. All this was very near to the makers of the Constitution, and the judgments of the courts at the time of the famous Middlesex election were still fresh in their minds. Hardly had their Constitution been ratified when they saw in France another example of a court controlled by outside forces. Having beheld the King *entering his* Parliament in Paris and holding a "bed of justice" to compel the registration of his edicts, they now looked on at the revolutionary tribunal where judges and juries alike were dominated by the crowd in the galleries. Great as the essential justice was of the French Revolution, the hideous perversion of the functions of the court in the days of the Terror must have confirmed the framers of the Constitution in their belief that an independent judiciary was one of the great defenses of human liberty.

It makes no difference what force controls the courts, if it comes from the outside, whether it is corruption or passion, the threat of removal, or the promise of gain; a court that can be controlled in any of those ways not only ceases to be a protection to freedom, to weakness, and to innocence, but becomes their most deadly foe, for it enforces the desires of an arbitrary will under the forms of law. When the judiciary ceases to be independent no man's life, liberty, or property is any longer safe. It is true that the courts move slowly—I do not speak now of what are known as the law's delays, which are evils to be eradicated—but of the movement of the courts, which is more deliberate in seeking accord with the advance or change of public opinion, than that of congresses or parliaments or legislatures. Yet courts after all are made up of men, and sooner or later they are certain to find themselves in agreement with the general movement of opinion which has been tried and tested by time and found to be sound. I do not think this deliberation is harmful to the body politic, but the destruction of the independence of the judiciary would be the worst blow that could be struck against personal liberty and against that freedom for which our ancestors fought and which was so dearly achieved.

Let me put in the place of my halting prose the words of a modern poet, which gives with the colors of imagination the thought which I have striven most inadequately to express:

All we have of freedom, all we use or know—
This our fathers bought us long and long ago.

Ancient right, unnoticed as the breath we draw—
Leave to live by no man's leave underneath the law.

Lance and torch and tumult, steel and graygoose wing
Wrenched it, inch and ell and all, slowly from the king.

So they bought us freedom—not at little cost—
Wherefore must we watch the king, lest our gain be lost.

Over all things certain, this is sure, indeed:
Suffer not the old king, for we know the breed.

Howso' great their clamor, whatsoe'er their claim,
Suffer not the old king under any name!

Here is naught unproven—here is naught to learn.
It is written what shall fall if the king return.

He shall mark our goings, question whence we came,
Set his guards about us, as in Freedom's name.

He shall take a tribute, toll of all our ware;
He shall change our gold for arms—arms we may not bear.

He shall break his judges if they cross his word;
He shall rule above the law, calling on the Lord.

Mr. President, one of the surest marks of an advanced civilization and the supreme test of political capacity are to be found in the successful operation of a highly organized system of free government. Free popular government is not simple, but extremely complicated, and the American people have demonstrated their position in civilization and shown their political capacity to be of the first order by carrying on with most victorious success a dual government as intricate and balanced in its arrangements as it has been strong and smooth in its operation. Under that government order and freedom have gone hand in hand; law has never stiffened into immobility nor liberty degenerated into license. By our example we have helped the oppressed, encouraged the cause of freedom, and helped humanity. By our success we have quickened the march of democracy throughout the civilized world. In a government of such achievements I have an abiding faith. I believe devoutly in a government of the people, for the people, and by the people; and that is what the Government of the United States, under the Constitution, has always been and is to-day. With such a history before us we shall do well to pause before we enter upon untried paths or seek to change the principles upon which great men built our fabric of government. We shall do well to hesitate before we mar a Constitution crowned by the triumphs of a century and to which the sad word "failure" is still a stranger.

SENATOR FROM ILLINOIS.

The VICE PRESIDENT laid before the Senate the report of the Committee on Privileges and Elections relative to certain charges relating to the election of WILLIAM LORIMER, a Senator from Illinois, by the legislature of the State, made in obedience to Senate resolution 264.

Mr. BURTON. Mr. President, it has been my intention to address the Senate on the law and facts of this case with considerable elaboration. But in previous discussions so many propositions have been presented with thoroughness and ability that I do not wish to take the time of the Senate to repeat them. I ask consent, however, that I may add to my remarks made on the floor certain legal authorities and other material pertinent to this question.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. BURTON. Mr. President, there have been numerous decisions in contested-election cases, and certain principles may be regarded as well established. At the very outset, however, I desire to call the attention of the Senate to the essential differences between an ordinary election in a city, county, or State, and the election of a United States Senator by a legislative body. All these differences impose upon the legislator weightier responsibility and require of him a higher standard of rectitude.

The first difference is one of numbers. The legislator is a member of a body having a defined membership, while the voter in city or county is, as it were, but an atom in a great mass. The individual legislator thus counts for much more.

The second difference is in the manner of voting and the degree of scrutiny which is placed upon him who gives his vote. The laws or constitutions of nearly all States have with the utmost care given absolute secrecy to the ballot. The elector goes to the polls, and there, without interference or disclosure, deposits his ballot. The member of the legislative body, on the other hand, must vote openly, and his choice is made a matter of public record.

The third difference is that the law requires a certain number to be present in the legislative body when a Senator is chosen, namely, a majority of the aggregate membership of the two branches of the legislative assembly, and the successful candidate must receive a majority of that majority. We should never lose sight of these palpable differences in considering the question before us.

Again, the Senate is not bound by any precedent created by a legal decision or even by a report of a committee of Congress. Most of the reports to Congress in contested-election cases have been characterized by a fair disposition and an evident desire to render a decision in accordance with justice. They have also been characterized in many cases by exceptional ability. But a great question of public policy is presented to the Senate in any contested-election case. The country looks here for an example. The State from which the Senator is accredited has a right to demand that exact justice be done.

Thus we may brush aside precedents if they do not accord with justice and the highest moral standards.

The certificate of Mr. LORIMER carries the presumption of his election, but that presumption can be overcome by a fair preponderance of evidence. His seat may be declared vacant if either one of three propositions be established.

First, that he himself, or any authorized agent of his, was guilty of misconduct in connection with the election; that is, guilty of any act of bribery, fraud, corruption, or undue influence. Proof of such misconduct invalidates his title, irrespective of the number of votes influenced by him or his agent. The same is true if he had knowledge of acts of corruption on his behalf. At first there were some who denied this rule, but I understand it is now universally accepted by the Members of this body. Accordingly I shall read but one or two decisions on the subject of the responsibility of a candidate or his agent.

In State *v.* Elting (29 Kans., 397), the court said—

that a purchased vote given for an individual candidate for office is not to be counted, is conceded. So also that a candidate for office who purchases a vote therefor is not to have the office, is also beyond question.

In a well-considered English case, referring also to the act of an agent, it was said:

If you show that a member bribes, of course it follows as a matter of justice that he can not hold his seat; or if you show that an agent of the member has bribed, though without the authority of the member—aye, even if directly contrary to his express order—the seat is forfeited not by way of punishment to the member but in order to avoid the danger that would exist if persons who are subordinate to the member in the course of the election were led away by their desire to benefit their superior by illegal acts, the precise extent of which it is difficult to prove, and a single one of which therefore, when proved, it is the policy of the law to hold should have the effect of avoiding an election. (The Litchfield election case, 20 Law Times, N. S., 11.)

I take it there is no distinction between the agent referred to in the English case just quoted and any other agent who assumes responsibility for his principal and takes part in efforts for his election. I need not argue that connivance or knowledge of bribery renders him ineligible as truly as personal action by himself or by an agent. That is a general principle of law running through all transactions. If one has knowledge of corrupt transactions in his behalf, it is his duty to stay the fraudulent conduct. It rests with him to stop that which is being fraudulently done.

There has been some discussion here as to whether the proof of bribery by the candidate invalidated his election or was an act of misconduct which made him subject to expulsion, which would require a two-thirds vote. The vital distinction which should be borne in mind in answering this question is that the conduct of the candidate is not merely personal to himself; it goes to the election, and thus invalidates it.

This question was before the Senate in the Caldwell case, where the committee said:

It has been a subject of discussion in the committee whether the offenses of which they believe Mr. Caldwell to have been guilty should be punished by expulsion or go to the validity of his election, and a majority are of the opinion that they go to the validity of his election and had the effect to make it void. Wherefore the committee recommend to the Senate the adoption of the following resolution:

Resolved, That Alexander Caldwell was not duly and legally elected to a seat in the Senate of the United States by the Legislature of the State of Kansas. (Taft on Senate Election Cases, p. 375.)

What is the reason which lies at the basis of this decision? It is the great and fundamental principle that fraud vitiates any contract or transaction. In all laws and decisions relating to fraud we find two different grounds upon which this principle is based. One may be said to be punitive, declaring that he who is guilty of dishonesty shall not profit by his own wrong, and shall receive such punishment as will deter others from following his example. A good illustration of this may be found in the rule relating to a promissory note.

For the sake of similarity, I will take a note with the amount in dollars equal to one-half the number of votes cast in this election. If A makes to B a promissory note for $101, and B, the payee, changes the "1" to an "8," making it "$108," he can not say, when the fraud is discovered, "I fall back upon my original rights. I waive the additional $7 dishonestly sought, but I still claim the $101." He must lose the whole debt, the $101 as well as the $7.

The other principle upon which is based the rule that fraud renders a transaction or contract void may be styled one of evidence. It takes for granted the punitive rule already stated and adds to that another regulation based upon the uncertainty of the transaction. If it is discovered that fraud attaches to part of it, and it is impossible to draw an exact line between that which is honest and that which is dishonest, then the whole contract or transaction is rejected.

A second ground for the exclusion of Mr. LORIMER would be proof that a sufficient number of votes counted for him were so influenced by bribery, fraud, or corruption as to diminish his total vote to a number less than that required for his election. This rule leaves out of account the action of the candidate, and is enforced even though the fraud was committed by outsiders, or, as they have been termed in this debate, "interlopers." It manifestly has a valid foundation in the fact that if any force of fraud or corruption so influenced votes to be cast for a certain candidate as to change the result, the election is void.

In dwelling upon the importance of this ground of disqualification, it is desirable to analyze the vote and to give a clear statement of the law pertaining to the election of Senators.

The total number of members elected to the two houses of the legislature was 204. One was deceased and one was absent, so that 202 members were present in the joint session on the 26th day of May, 1909. Of these, 108 were registered as voting for Mr. LORIMER and 94 for other candidates. The number of legal votes required for an election was 102. If seven votes were invalid, he [LORIMER] only received 101, or one less than a sufficient number to elect.

At the beginning of this discussion there were emphatic denials of any fraud in the election of Mr. LORIMER, but the tendency of late has been noticeably in the other direction. The Senator from Idaho [Mr. HEYBURN] last Friday virtually admitted the existence of fraud and of bribery. He could not ignore the unequivocal statements to this effect made to the committee. He thus fell back from one rampart, that of facts, to another, that of law. I shall endeavor from the testimony to show that not only seven members, but also several others were corrupted. I think that it is now generally admitted by the Members of the Senate that seven votes were corrupted.

In order to understand the regulation relating to United States Senators, I wish to review at some length the circumstances leading to the passage of the act of 1866. There have been two distinct theories in this country in regard to legislative procedure, recognized by constitutions, by law, or by the rules of the respective legislative bodies. The first is that to pass any measure or to make valid any election it is necessary to have a majority of all the members elected. For instance, if a legislative body consists of 100 members, 51 must vote for any proposition to secure its passage. That rule was adopted in the State of Florida many years ago and was involved in a senatorial contest.

In the year 1845 in the State of Florida this resolution was passed:

Resolved, That a majority of all members elect composing the two houses of the general assembly shall be necessary to determine all elections devolving upon that body.

In a controversy occurring in the year 1851 there were 59 members elect of the legislature. Mr. Yulee, a candidate, received 29 votes as against 29 votes, blank or scattered. This was a majority of all the members voting, but the presiding officer decided that there was no election. At a later time Mr. Mallory, his opponent, received 31 votes against 27 for Mr. Yulee, which was a clear majority of the 59 members elect. Mr. Mallory was seated, and it was held that the Legislature of Florida had a right to adopt such a rule as that embodied in the resolution.

On the other hand, in the case of Mr. Stockton, of the State of New Jersey, it appears that there were 81 members of the legislature. The rules of procedure in the legislature from 1861 until 1865, the date of the vote upon the Senatorship, had been to the effect that a majority vote was required. In the last-named year the joint session of the legislature adopted a rule that any candidate receiving a plurality of votes should be declared duly elected. Mr. Stockton received 40 votes against 41 for five other candidates, thus having a plurality and was declared elected in the joint meeting.

There was a very heated contest in the Senate. Mr. Trumbull, of Illinois, filed a report maintaining that Mr. Stockton was elected. It seems to me he was right in that conclusion, but nevertheless the Senate, by a very close vote, rejected the claims of Mr. Stockton.

The second rule in parliamentary procedure is one in vogue in the Senate and the House of Representatives, namely, that a majority of all the Members elected must be present to make a quorum for transacting business, and that a majority of that majority is necessary for the passage of any bill. For instance, using the same illustration as before, if there are 100 members of any legislative body, not, as in the Florida case, must 51 vote for any proposition, but 51 must be present and 26 of those 51 must vote in favor of a bill in order to insure its passage. There are other questions relating to the presence of members who do not vote, but I think it undesirable to digress upon that subject.

Those were the two conflicting theories before Congress when the act of 1866 was passed. There was another perplexing question which arose in the case of Mr. Harlan, of Iowa, in the year 1857. In that election the State senate and house were of different political complexion. The house met with a sufficient number of members of the senate to make a majority of

the membership of the two houses, but there was less than a quorum of the State senate present in the joint assembly. The discussion revolved on this question: Is it necessary that a majority of each house should be represented in the joint assembly?

On the one side it was maintained that where two integral bodies are merged together for any purpose the concurrence of both is necessary in the joint assembly. On the other side it was held that a State legislature has two functions, one local and one Federal. In the exercise of its local function the constitution of the State prevailed, and under it any action in order to be valid must be taken by each body separately; but in the exercise of its Federal function both bodies became merged in the joint assembly, thus losing their identity as separate bodies, and all that was required was the presence of a majority of the total membership of the two houses. If, for illustration, the house consisted of 100 members and the senate of 40 members, 71, a majority, could elect a Senator. Indeed, to carry this argument to its logical conclusion, if 71 members of the house were present and not a single senator, an election could still be had. But the case was decided on the theory that a majority of each house should be present for the election of a Senator.

Mr. OVERMAN. Did that case come to the Senate, and was it decided, and has the Senator the report there?

Mr. BURTON. It is reported in Taft on Election Cases. Senator Seward, of New York, took the view that the two houses became merged. I do not at this moment recall the name of the Senator who filed the other report.

Mr. OVERMAN. The case was not passed upon in the Senate?

Mr. BURTON. It was passed upon in the Senate. The decision was that the two separate bodies must be represented.

Mr. OVERMAN. That in the joint session there must be a majority of both bodies.

Mr. BURTON. That was the decision in 1857. The Senator from North Carolina will, however, notice that under the statute of 1866 that controversy is entirely foreclosed. This law adopted the view of Senator Seward that the bodies became merged in one organization for the election of a Senator.

The act of Congress of 1866 recognized the provision of the Constitution that the legislatures of the respective States may determine the time, place, and manner of electing Senators, but that Congress may make or alter these regulations. As appears by the discussion of 1866, it was thought desirable to exercise this power to make regulations with a view to securing uniformity, thereby preventing a recurrence of the numerous perplexing questions which had been brought to the Senate in contested-election cases.

The act of 1866 adopted substantially the second of these two theories that I mentioned, namely, that a majority could do business and that a majority of that majority could elect. It further established the rule that the two branches of the legislative body became merged in the election of a Senator; that is, unless a choice is made when the vote is taken in the two separate bodies. The law evidently had in contemplation the possibility not only that the majority in the two bodies might be of different political complexion, but that one body, senate or house, might refuse to participate in the joint assembly.

The requirements of the act are perfectly clear.

Each house of the legislature must meet separately on the second Tuesday after convening and organization, and vote for a Senator. The statute is silent as to what constitutes a quorum in the respective houses.

It is conceivable, and even probable, that the law or constitution of a State might provide that more or less than half, that two-thirds or one-third, for example, might be regarded as a quorum for the transaction of business, and that a majority of such quorum, made up of a less number or a greater number than a majority of the respective houses, could elect a Senator; that is, if both houses concur in the election. There is, however, no such uncertainty as regards the joint assembly. If no one has received a majority in both houses, or, if either house has failed to take proceedings as required by law, the joint assembly shall on the following day proceed to choose by a viva voce vote of each member present a person for Senator. The person who receives a majority of all the votes of the joint assembly, *a majority of all the members elected to both houses being present and voting*, shall be declared duly elected.

It is absolutely unnecessary to engage in refinements in regard to this statute. It means that a majority of the members elect to both houses must be present and it means also that the successful candidate must receive a majority of those present and voting.

As already stated in this case, 202 were present and voting, and 102 must vote in order to secure an election.

It has been maintained that the contested-election cases of Miller and Lapham furnish a precedent to the effect that less than a majority of those voting can select a Senator. The report in the case made by Mr. Hill of Georgia, on December 12, 1881, shows nothing of the kind. It appears that not only was there a quorum or a majority of both houses present, but a quorum of each body. In the presentation of the report to the Senate, Mr. Hill says:

> It is alleged that there was not a quorum present of each body on the days the respective elections took place.

It may be said in passing that it was unnecessary that a quorum of each body be present, but if there was a majority of the total membership of both bodies present, it is perfectly clear that there was a quorum in the joint assembly, so that the first requirement of the statute was complied with.

Again he says:

> They were each chosen by a majority or quorum of each body being present and a majority of the joint assembly voting.

He further says:

> The third ground alleged is that there was not a majority of the whole legislature actually voting for the members chosen. In our opinion that is not necessary. There was a quorum of each house present in the joint assembly; there was a majority of that quorum actually voting for the members chosen. In our opinion that was a valid election.

In this last statement he is meeting the claims of those who were of the opinion that a majority of all members elect must vote for the candidate, the rule established in the resolution passed in the State of Florida in 1845.

I have given in detail a description of these various statutes and regulations in the different States, because it is necessary to understand the circumstances which led to the passage of the act of 1866 and to show what regulations now prevail in the election of a Senator.

It thus appears that if seven or more votes are deducted from the vote of Mr. LORIMER, his election was invalid on this second general ground which I have stated. For if seven are deducted from 108, he receives one less than a majority of the 202.

Mr. BEVERIDGE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Senator from Indiana suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Cullom	Heyburn	Shively
Bankhead	Cummins	Johnston	Simmons
Beveridge	Curtis	Jones	Smith, Md.
Borah	Depew	Kean	Smith, Mich.
Bourne	Dick	Lodge	Smith, S. C.
Bradley	Dillingham	Martin	Smoot
Brandegee	Dixon	Nelson	Sutherland
Briggs	du Pont	Overman	Swanson
Bristow	Fletcher	Page	Taliaferro
Brown	Flint	Penrose	Taylor
Burton	Foster	Percy	Tillman
Chamberlain	Frazier	Perkins	Warner
Clapp	Gallinger	Rayner	Warren
Clarke, Ark.	Gamble	Richardson	Watson
Crawford	Gronna	Root	
Culberson	Guggenheim	Scott	

The VICE PRESIDENT. On the roll call 62 Senators have answered to their names. A quorum of the Senate is present. The Senator from Ohio will proceed.

Mr. BURTON. I was just speaking, Mr. President, of the effect of the deduction of seven votes from the 108 counted for Mr. LORIMER. The supporters of this title maintain that if these seven are deducted from his vote they must also be deducted from the total number present.

Mr. HEYBURN. I should like to inquire if the Senator will object to an interruption?

Mr. BURTON. Certainly not.

Mr. HEYBURN. I should like to ask the Senator to what seven he refers. Inasmuch as I understand that in my absence the Senator said I had admitted corruption, I should like to know whether the Senator is proceeding with the statement that I made or upon an independent statement of his own.

Mr. BURTON. Seven men were guilty of bribery. I referred to the three bribers, Wilson, Browne, and Broderick, and the four bribe takers, Link, Beckemeyer, Holstlaw, and White.

Mr. HEYBURN. Mr. President, all I want to say is that I said, admitting for the sake of argument—if those are not the exact words it is not material—that these men were all guilty, then I drew my conclusion as to the legal effect.

Mr. BURTON. I do not have the RECORD before me, but the Senator from Idaho said that certain members admitted they were bribed, and that he took it to be correct.

Mr. HEYBURN. That referred to the four who admitted that they were bribed, and they admitted that others bribed them; and I was willing to take their statement for it. But it would not affect the result.

Mr. BURTON. Then the Senator from Idaho would virtually maintain this contention: Four men can be bribed, but there is no one to bribe them.

Mr. HEYBURN. I would not maintain any such contention, and I would not want that to go out. Somebody named them, but whether in the aggregate three men, two men, or one man, they do not constitute a sufficient number to affect the result of the election. That is the position I took, and that is what I said.

Mr. BEVERIDGE. Here is the Senator's statement in the RECORD.

Mr. BURTON. I give the Senator from Idaho full credit for his statement as just given. This, however, is what he said:

> Mr. President, I am not going to analyze the testimony for the purpose of determining what weight is to be given to the charges against these five men, because I am going to admit that they are guilty of the things that are charged. They said they were; and, so far as I am concerned, they stand confessed criminals, unworthy of the confidence or of the attention of any man.

Mr. HEYBURN. That does not materially differ from what I said. I probably would not use the same language if I were speaking it over again, but I would speak the same fact.

Mr. BURTON. The Senator from Idaho must admit, however, that the ordinary reader in reading that paragraph would conclude that the question of the receipt of bribes was foreclosed from this case.

Mr. HEYBURN. I intended it should. However, I did not speak it for the reader, but for those who heard me.

Mr. BURTON. I can hardly see any distinction between the reader and the hearer. If anything, I think, spoken words are a little more emphatic than when read——

Mr. HEYBURN. I mean I was not giving attention to how the phrases would look upon paper. I was expressing the thoughts as they came into my mind. I have not read it myself.

Mr. BURTON. And in expressing those thoughts, it seems to me, Mr. President, we are justified in reaching the conclusion that at least one member of the committee admits the receiving of bribes, and it plainly follows that there can be no bribe takers without bribe givers.

It is the contention of the supporters of Mr. LORIMER'S title, that if the seven are to be deducted from the 108, leaving 101, the same number must be deducted from the total number present, reducing it from 202 to 195. In that event Mr. LORIMER would still have 101 votes as against 94 and be elected. The only plausible ground in favor of this proposition is that you can not deduct them for one purpose, namely, the counting of the votes for the candidate for the Senate, without deducting them for another, namely, the making of a quorum. But, Mr. President, this rule is absolutely untenable; it runs contrary to every principle of law and common sense. These members were present and voted. They were not expelled or suspended. They had a duty to perform, namely, to cast a vote in accordance with their best judgment, with no thought of a bribe. As was well remarked by the Senator from Idaho [Mr. BORAH] this morning, you can annihilate a vote, but you can not annihilate the voter.

Let us look at this argument from the standpoint of morality and public policy. Let us look at it in the light of the great and comprehensive principle that no man or set of men shall profit by their own wrong. Grant such a proposition as the advocates of LORIMER are contending for and those engaging in fraud are bound to win. There is no possibility of failure. If the bribery is not detected, the seven votes are counted for LORIMER, making 108, and he is elected of course, but even if the fraud is exposed to the eyes of the world he is elected all the same. For if those seven votes are subtracted from the whole number present each one will still count for at least half a vote for LORIMER, and he will be the choice of the legislature. You would have to change the quotation "corruption wins not more than honesty" and substitute in its place "corruption wins yet more than honesty." There is no law that can be found in support of any such proposition. It has no precedent except in the scheme of the cunning Iago when he set Roderigo on Cassio and said:

> Now, whether he kill Cassio,
> Or Cassio him, or each do kill the other,
> Every way makes my gain.

The decisions of the courts in New Jersey and in Minnesota, referred to by the Senator from South Dakota [Mr. GAMBLE], do not at all sustain this contention. The decision in the New Jersey case was one in which it was discovered that men outside of a certain voting precinct—that is my recollection of the decision—inadvertently voted where they were not entitled to vote, and it was held that those votes might be deducted and yet the proposition pending before the people would prevail. There was an error relating to the right to vote and the illegal votes were subtracted.

In the Minnesota case, to which the Senator referred, there was a question of the passage of a franchise. It required four-sevenths of the total vote to confirm the franchise. Some votes were marked—five, I believe—which was contrary to the provisions of the law. Fifteen had such imperfect designations that the intention of the voter could not be determined. For that reason they were excluded, and yet there remained the requisite majority in favor of the proposition. In those two cases the qustion was not one of fraud, but of illegality. Between the two there is a very wide difference. Fraud vitiates everything, while illegality, if its boundaries can be traced, can be eliminated, and the transaction to which it belongs may still remain valid.

Mr. NELSON. Mr. President, will the Senator allow me to simply make a suggestion in that connection?

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Minnesota?

Mr. BURTON. Certainly.

Mr. NELSON. My suggestion is, that at a general election where people vote by ballot the question of a quorum is never involved.

Mr. BURTON. I thank the Senator from Minnesota for making that suggestion. But I alluded to that in the very beginning of my remarks, and shall perhaps dwell upon it later.

"Fraud poisons the whole fountain," as Lord Coke says; but in these two cases there was no fraud; and you could separate the sound from the unsound votes and the result was still clear. Nevertheless, in a Michigan case, People *v.* Cicott (16 Mich., pp. 295, 304–305), the rule is laid down that the deducted votes must be added to those of the opposing party, and that, too, when only illegal votes were under consideration. The court says:

> It has always been held, and is not disputed, that illegal votes do not avoid an election, unless it can be shown that their reception affects the result. And where the illegality consists in the casting of votes by persons disqualified, unless it is shown for whom they voted, it can not be allowed to change the result. * * * No voters who have honestly voted ought to lose their ballots unless it is impossible to give them effect—

Now, here is the whole point—

> And where there is such a plurality in favor of any candidate that he could afford to allow these doubtful votes to his adversary, and still be in advance of him, there is no difficulty in perceiving that he must have been voted for by a plurality of all who cast their ballots and his election should be established. But where the plurality is so small that the excess would turn the scale if allowed to the opposing party—

Mark that. In this case it would have changed the vote from 108 to 94 to 101 to 101—

> it can not be shown that either has a majority, because no one can tell what ballots were improperly introduced, and therefore it can not be determined who would have been benefited by their exclusion. An election can not be allowed to depend on an uncertainty. The majority must be susceptible of proof.

Presumably each one of these voters who was bribed, had he followed his own judgment, would have voted according to his party affiliations, or as he had been voting up to the last ballot, as is suggested to me by the Senator from Indiana [Mr. BEVERIDGE]. It is a most unheard-of proposition that you can take men of opposing parties and transfer them by bribery into the columns of one candidate, and, if you can not so transfer them, throw them out altogether, leaving the candidate who is aided by bribery a majority in any event.

Suppose these seven voters had been bribed to leave the hall, leaving the total number present 195. Will anyone contend that such an election would be free from the taint of corruption? Let me give another illustration which shows the absurdity of such an argument. Suppose some members could be bribed to vote for Mr. LORIMER, but others, who would not vote for him under any circumstances, could have been bribed to vote for Mr. Hopkins, or some other candidate, and general bribery for all candidates was engaged in, so that Mr. LORIMER would receive a majority of what are called "sound votes." Under the claims set forth this could be done, and all bribed votes for whatsoever candidate cast might be excluded, establishing the most remarkable result that it might aid one candidate to bribe a legislator to vote for another candidate.

Mr. FRAZIER. Mr. President——

The PRESIDING OFFICER (Mr. DIXON in the chair). Does the Senator from Ohio yield to the Senator from Tennessee?

Mr. BURTON, Certainly.

Mr. FRAZIER. The presumption certainly would be as suggested by the Senator with respect to the votes of those men; otherwise it would not have been necessary to bribe them at all.

Mr. BURTON. I will come to that point later, and I thank the Senator from Tennessee.

A further point is this: Why do persons seeking a certain result in a legislature bribe anybody? Surely they would not if they expected it to be futile, or if they thought they would fail to accomplish the result sought. I shall bring up this subject again in connection with the general subject of fraud.

Another argument against this proposition, Mr. President, which has not yet been mentioned in this debate rests on the phraseology of the statute itself:

The person who receives a majority of all the votes of the joint assembly, a majority of all the members elected to both houses being present and voting, shall be declared duly elected.

The statute does not say, as suggested by the Senator from Idaho a few days ago, a majority of all the sound votes, but a majority of all the votes of the joint assembly; so that if 202 were the total number of votes cast, the successful candidate must receive 102. The specific requirement of the law is that there shall not be merely a majority, but a majority of all the votes of the joint assembly, in order to elect; 202 in this case being present and voting.

If the Senate in framing this law had desired to prevent such a situation as this, if it had been their intention to prevent the dark shadow of fraud and bribery ever entering a legislative hall, what apter and more appropriate words could they have used than those in this very statute?

The Senator from Kentucky [Mr. PAYNTER], for whose candor and judgment I have the very highest respect, also laid down the principle that if the dishonest votes were deducted from the number of votes cast for any candidate, they must also be deducted from the total number present. In support of this position he referred to the findings of the Senate in the Clark case, Senate Election Cases, page 915, where it is said:

(1) It is clear that if by bribery or corrupt practices on the part of the friends of a candidate who are conducting his canvass votes are obtained for him without which he would not have had a majority, his election should be annulled, although proof is lacking that he knew of the bribery or corrupt practices.

Then the Senator asserts that the fraudulent votes must be subtracted, not only from the list of the candidate, but from the *total number*. Unfortunately for this contention the committee in that case expressed an opinion on the very proposition now before the Senate. The authority to which the Senator refers especially negatives his conclusion.

The Senator from Iowa [Mr. CUMMINS] has already pointed this out in a previous discussion. The committee stated, according to the law as understood by the committee, Senator Clark could not be permitted to retain his seat. He received 54 votes and there were 39 against him, leaving him an apparent majority of 15. If he obtained through illegal and corrupt practices eight votes which would otherwise have been cast against him, he was not legally elected.

Now, let us apply the rule contended for to this case. If the eight votes were deducted from those voting for Mr. Clark he would receive 46. If the contention of the Senator from Kentucky is correct, they should also be deducted from the 93 votes cast, leaving 85, of which a constitutional majority would be 43. He received 46 so-called "sound votes," three more than sufficient to elect him, if that theory is correct, so that the case cited is in diametrical opposition to the contention made.

The Senator from Kentucky also cited a passage from McCrary on Elections, which, it seems to me, when read in connection with the context, does not afford very much support for, but, indeed, absolutely denies his contention. This was quoted by the Senator:

In purging the polls of illegal votes the general rule is that, unless it be shown for which candidate they were cast, they are to be deducted from the whole vote of the election division, and not from the candidate having the largest number. Of course, in the application of this rule such illegal votes would be deducted proportionately from both candidates, according to the entire vote returned for each.

Now, let me call the attention of the Senate for a minute to one important fact, which makes that quotation from McCrary absolutely inapplicable. In the case referred to the votes were deposited by the electors, and no one could tell who cast any one of them. Secrecy was carefully guarded. How can such a rule apply to the case where each man stands up as his name is called and casts a viva voce vote for some candidate and his vote is made a matter of public record?

As further proof showing how inapplicable the citation is to this case, the eminent author of this work evidently had in mind votes that were illegal but without fraudulent intent and the hardship imposed by rejecting the returns, for he says in the following section:

This is probably the safest rule that can be adopted in a court of justice, where there is no power to order a new election, and where great injury would result from declaring the office vacant; but it is manifest that it may sometimes work a great hardship, inasmuch as the truth might be, if it could be shown, that all the illegal votes were on one side, while it is scarcely to be presumed that they would ever be divided between the candidates in exact proportion to their whole vote.

He begins in these words to throw doubt upon the rule as stated by him and quoted by the Senator from Kentucky.

But let us read from another part of the section and see whether it affords support for the contention of the Senator from Kentucky.

In a legislative body having power to order a new election, and in any other tribunal having the same power, it will doubtless, generally, be regarded as safer and more conducive to the ends of justice to order such new election than to reach a result by the application of the rule above stated.

In speaking of the impeachment of returns for fraud in section 571 of the same textbook, the author says:

The return must stand until such facts are proven as to clearly show that it is not true. When shown to be fraudulent or false, it must fall to the ground.

If this is true with reference to a return made by election officers, much more is this true where each member of the legislature records his vote and the facts can be readily maintained.

The third ground upon which the election of Mr. LORIMER can be declared invalid and the seat vacant is the prevalence of fraud or corruption in such a degree as to vitiate the proceedings of the legislature. This ground rests upon proof of the existence of fraud and the impossibility of determining its exact boundaries. At common law the proof of a single case of bribery vitiated the whole election.

As was stated by Lord Coke, "Bribery poisons the whole fountain." This view is taken by Senator Morton in his argument in the Caldwell case in the Forty-third Congress. He said: "Fraud in election avoids it without reference to the number of votes affected."

He quotes from Mr. Cushing on the Law of Legislative Assemblies, as follows:

Freedom of elections is violated by external violence by which the electors are constrained, or by bribery, by which their will is corrupted; and in all cases where the electors are prevented in either of these ways from the free exercise of their right the election will be void without reference to the number of votes thereby affected.

Again, in speaking of bribery, Mr. Cushing said:

It is an offense of so heinous a character, and so utterly subversive of the freedom of election, that when proved to have been practiced, though in one instance only, and though a majority of unbribed voters remain, the election will be absolutely void.

The high ground taken in these quotations from Mr. Cushing has not been accepted in many of our States or legislative bodies. Nevertheless, they all adhere with strictness to the principle that if a separation can not be made between votes which are honest and those which are fraudulent the election is void. This rule is independent of the action of the candidate or of his agent and also of any mathematical computation of the number of votes proved to be corrupted. As stated in a recent legal publication, the American and English Encyclopedia of Law, volume 10, page 782 (footnote):

General bribery will avoid an election, even if not committed by a candidate or his agent, upon the ground that there was no real, pure, or free choice in the matter, but what had occurred was a sham and not a real election.

And in the Litchfield election case it is said:

If there were general bribery, no matter from what fund, no matter from what person, and though the sitting member or his agents might have nothing to do with it, it would defeat an election because it would show that the election was not a proceeding pure and free as an election ought to be, but that it was vitiated by an influence which, no matter from what quarter it came, had avoided the return and shown it to be abortive.

The same rule is applied in relation to the returns in a voting precinct where the election board is found to be guilty of fraud. Judge McCrary says:

The safe rule, probably, is that where an election board are found to have willfully and deliberately committed a fraud, even though it affect a number of votes too small to change the result, it is sufficient to destroy all confidence in their official acts, and to put the party claiming anything under the election conducted by them in the proof of his votes by evidence other than the return.

It is impossible to arrive at a correct conclusion in this controversy by mere mathematical calculation. Let us not be befogged in the consideration of this question, in which the honor of the Senate and the purity of elections are at stake, in which are involved considerations of the greatest weight and magnitude in determining the safety of our very institutions, considerations which should make us pause and view this subject, however repellant it may be to our thoughts, with a full understanding of the responsibility that rests upon us to-day.

I would like to call attention for a moment to the fact that there are other lines of inquiry than those pursued by the subcommittee which investigated this case, and the Senate ought not to omit them. I do not come here to condemn the committee. It was a most disagreeable task that they had to perform. It was near the time of a general election, when, no doubt, every member of the committee desired to go to his home. Lawyers had been investigating the two sides, and the committee very naturally were inclined to conclude that those lawyers had exhausted all lines of inquiry. Nevertheless, I can not believe that their inquiry was complete and that this question has been exhausted. The Senator from New York [Mr. ROOT], a few days since, referred to several instances of apparent omission to take testimony. I wish to refer to another—the case of the testimony of Broderick.

Broderick, as was testified, had paid $2,500 in the month of June to Mr. Holstlaw, a member of the State senate, and a further amount of $700, I believe, at another time. He was called before the committee. Just as soon as he reached a very interesting situation in the account of what transpired he declined to answer on the ground that it might injure or incriminate him, and later he refused to answer questions on the same ground, and there the inquiry of the committee ceased. Mr. President, I do not understand that that committee was compelled to stop at that point. The Senator from Idaho [Mr. BORAH] has set forth the law as I understand it on this subject, that if a witness desires to plead his constitutional privilege he must do so in limine; that he can not tell his side of the story, and as soon as someone wishes a further explanation, as soon as a lawyer begins to cross-examine him, say, "This will incriminate me, and I refuse to answer." Mr. President, if you adopted any such rule it would mean that a witness could state all there was in a transaction favorable to himself and absolutely shut out anything that might have any unfavorable coloring for him. It seems to me that the members of the committee who stopped at a certain point in Mr. Broderick's testimony did not take into account provisions of the Revised Statutes on this very subject. First I quote section 103:

SEC. 103. No witness is privileged to refuse to testify to any fact, or to produce any paper, respecting which he shall be examined by either House of Congress, or by any committee of either House—

That is this case—

upon the ground that his testimony to such fact or his production of such paper may tend to disgrace him or otherwise render him infamous.

Perhaps that would not alone authorize the committee to have proceeded with this investigation. It refers to disgracing a man or otherwise rendering him infamous, but there is another section on this subject—section 859:

SEC. 859. No testimony given by a witness before either House, or before any committee of either House of Congress, shall be used as evidence in any criminal proceeding against him in any court, except in a prosecution for perjury committed in giving such testimony. But an official paper or record produced by him is not within the said privilege.

This section granted Mr. Broderick absolute immunity in Chicago and everywhere else. A case of this kind was taken up before the Supreme Court as to the scope of such provisions. It was argued on the one side that a man ought to be able to fall back on his right to refuse to answer questions, because, independent of criminal punishment, the disgrace and the ignominy was something to which he ought not to be subjected; but the Supreme Court said "no; the sole object of these immunity sections is to relieve a man of actual punishment." When this relief is afforded him his lips must be unsealed, and he must answer any question that you will ask him. See what might have happened in case Broderick had answered further questions. He admitted that Mr. Holstlaw had come to his establishment, admitted the interview, but said it was just merely a social call. Suppose it had been possible to cross-examine him as to who was there, as to what was done, as to whether he went into another room with Holstlaw, or stayed in the main room of his saloon. What a rich lead that would have afforded in regard to the truth or falsity of the testimony of Mr. Broderick!

Perhaps I might as well now as at any time call attention to the fact that when a man relies upon this privilege of protection against questions that might incriminate him, it does not do away with the inference, which the Members of this body must inevitably frame from it, namely, that he was guilty, altogether guilty, and that he dared not face these transactions and let the truth be known in regard to them.

In a question of such momentous consequence the Senate should exhaust every source of information that will throw light on the election. It can not afford to allow valuable sources of information to be closed by mere technicalities.

There are one or two incidental questions, Mr. President, on which I wish to dwell briefly. Some have asked the question whether the giver of a bribe is alike culpable with the taker? In the popular mind, the giver of a bribe is sometimes placed on a different plane from the taker; but the decisions of the courts, as well as the plain common sense of the case, have settled this question. In Bouvier's Standard Law Dictionary this is said under the title "Bribery:"

Bribery of a voter consists in the offering of any reward or consideration for his vote or his failure to vote. The offense of the giver and receiver of the bribe has the same name. It applies both to the actor and receiver.

There are two decisions of two great English judges that are so clear upon this subject that I think it well to read them also. Lord Glenbervie said:

Wherever a person is bound by law to act without any view to his private emolument, and another by corrupt contract engages such person on condition of payment or promise of money or other lucrative consideration to act in a manner which he shall prescribe, both parties are by such contract guilty of bribery.

Lord Mansfield, who was in his day the ornament of the English bench, said:

Wherever it is a crime to take, it is a crime to give. They are reciprocal, and in many cases, especially in bribes at elections to Parliament, the attempt is a crime. It is complete on his side who offers it.

The real reason for this rule is plain enough, that in an election or in the performance of any official duty he who acts must be alike free from corrupt influences and corrupt designs. If he is in any way affected by either, his act is not sound and honest.

There is another question to which it is perhaps necessary to give somewhat more extended attention. Does the receipt or offer of anything of value, after the vote is cast, constitute the offense of bribery? These amounts were not paid—unless, possibly, a small amount in one case—until after the election, and, indeed, it is stated that these men would have voted for Mr. LORIMER, anyway. Is there any question as to whether their acts were tainted by bribery? The English corrupt practices act includes on the same footing every voter who shall before or during an election, or after election, receive directly or indirectly any valuable consideration.

The real criterion must be the corrupt intent or action of the voter or briber. If there was any expectation that any reward would be given or a manifestly corrupt disposition at the time of voting, the offense exists whether the amount was received before or after the vote was cast. It is impossible to avoid the conclusion that there was a corrupt intent all through this transaction. There was manifestly a corrupt combination in the Illinois Legislature, and anyone who dealt with that combination knew that money was expected as a quid pro quo for his vote. The payment of money down at St. Louis in June and July or in Broderick's saloon was no new thing. Corruption had been rife through the whole session. No one can deny that. Not only in the matter of the election of a Senator, but in matters of legislation money was paid or favor promised; certain members of the legislature expected remuneration for their votes. It also appears that those about whom evidence has been received were in frequent communication with others who were making promises for votes and offering money, and finally the receipt of money itself is conclusive proof that the legislators were not free and untrammeled. If those who received it were free from corrupt intent, they certainly would not have received money after the votes were cast. In brief, it is impossible to separate the receipt of money after the election from other facts and circumstances in the conduct of these members which go to make up one dishonest transaction.

It seems to me that the argument lacks humor which would say, "There is proof of a jack pot to influence legislation, but there corruption stops. The senatorial election is pure and free." If you will examine the record you will note this remarkable fact. I do not recall a single bill or measure mentioned with reference to which this jack pot was created. Everything points indubitably to the use of this fund for the purchase of votes in the senatorial election.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Idaho?

Mr. BURTON. Certainly.

Mr. BORAH. In connection with the line of argument which the Senator is now making, and in view of the fact that it has been stated here several times in a brief way as to what took place at the time the votes were being cast there, indicating general corruption, I have what is represented to me to be a stenographic report of a speech made at that time. I should like to read a paragraph of it.

Mr. BURTON. I shall be glad to yield to the Senator from Idaho for that purpose.

Mr. BORAH. This speech was made by Mr. English, a prominent Democratic member of the house, at the time the voting was going on, or about that time. He said:

I do not expect, gentlemen, to influence the election of a United States Senator. It is not my purpose. It is my purpose, if possible, to place before the minds of the Democratic side of this general assembly the position that you occupy here to-day. When I attempt in my feeble way to express to you my views upon this matter, it is up to every one of you to search your hearts and your consciences before you vote here to-day.

I understand the position that we occupy here, I think. We are told that when we return to our several constituencies that we expect to state the reasons why we have voted here to-day in the way we have. I want to ask you Democrats, do you expect to tell the whole reason?

Representative ABRAHAMS. Yes.

Representative ENGLISH. If you do, gentlemen, your constituency will retire you into oblivion, where you rightfully belong.

From the north and the south, from the east and from the west of this great Commonwealth, you Democrats are proceeding to stultify the principles you have been sent here to represent.

Again, he says, upon the following page:

But, you say this talk "can not be cashed." Yes; "dreams" can not be "cashed." What can be cashed upon the floor of this joint assembly? Nothing but votes, I take it.

Mr. BURTON. I am obliged to the Senator from Idaho. It appears that the leader of this coterie of 30 made the remark, "You can not cash dreams," I believe, and somebody responded, "But you can cash votes." That contemporaneous exposition or explanation has great force in law is a legal maxim, and it is apparent that at the very time the roll was being called the impression prevailed that the vote was influenced by bribery and corruption.

There is another point in regard to the receipt of this money after the election. Suppose a person's motives were pure and honest; that his vote was not affected by the receipt of money or the expectation of the receipt of money. How unnatural, how inconceivable would be his act in taking the money afterwards. Witnesses testify it was handed to them and called "Lorimer money." If a man were honest and uninfluenced by the gold that was put in his hands he would have voted differently. No matter what he may have said before and no matter at what time the money was received, the offense of bribery is clearly established.

Now, there is one other line of inquiry, concerning which, Mr. President, I have collected quite a number of authorities, and that is the admission of the declarations of the deceased member, Luke. The committee in their investigations excluded testimony regarding the admissions of Luke, notwithstanding the fact that there were strong corroborating circumstances tending to show that he was also guilty of selling his vote.

I shall touch upon this only briefly, without reading all the authorities. The committee, as I take it, acted on the theory that because this member of the legislature was deceased his explanations as to how he voted could not be received.

Mr. President, in the case of members of a legislative body, I maintain that was an absolutely erroneous conclusion. To be sure, you will find many decisions to the effect that you can not receive the admissions of a voter as to how he voted. This rule is placed on somewhat the same ground as the rule regarding the admissions of a juror. But even in the case of jurors, their evidence may be received for the purpose of showing any matters of misconduct either out of the jury room or within it. They may prove misconduct of one of the parties in the suit, such as conversation with jurors after they are sworn.

On this subject it is stated in a Pennsylvania case, Seventh Serg and Rawle, page 458:

The very necessity of the thing makes it proper. When men engage in fraud or corruption it is not in the face of the public—they never call witnesses to attest such practices, but on the contrary, seek by every means in their power to prevent detection. From the nature of the thing none can know it but the juror or arbitrator and the person using the means of corruption. To exclude the juror or arbitrator would be to prevent the party from showing the great injustice and wrong he may have sustained. If, in exposing the conduct of the party, the juror or arbitrator appears in a light that is not creditable to himself, it is the fruit of his conduct and he must abide it as anyone else who may, in the advancement of justice, have to expose his own disgrace. We think that every consideration which applies to compelling a juror to testify to the acts of corruption or misconduct of the parties applies with equal force to arbitrators.

Of course you can not introduce evidence relating to the arguments that influenced a juror to vote as he did, because that would be trying a case over, with greater elements of danger and of error than would prevail in the jury room. But what is the ground for this? It is the secrecy in the action of the juror, reenforced by the reasons I have mentioned—the greater probability that he reached a correct conclusion when acting under the instructions of the judge and when the evidence was fresh in his mind.

Also, there have been decisions to the effect that an elector can not, after an election, state how he voted. But the real basis of this is the danger that unscrupulous persons, where a close vote has obtained, may, under the influence of some corrupt motive, come forward and state that they voted in a way really different from that in which their votes were actually cast. The secrecy of the ballot affords also opportunity for perjury. That is the reason. In most States the law requires that an elector go to the polls without interference or intimidation and deposit his ballot in absolute secrecy. In the State of Illinois, I believe, in the year 1875 or 1876, a decision was rendered that a regulation numbering the ballots so that on later investigation it could be determined how each voter expressed his will, was contrary to constitutional provisions assuring the sanctity of the ballot.

Neither of the principles stated applies in the least degree in the case of a legislative body where the vote is recorded and open to all for inspection. So I maintain, with utmost confidence, that the admissions of Luke should have been allowed to go into the record. In the case of State ex rel. Hopkins *v.* Olin (23 Wis., 310), a case frequently cited in textbooks on elections and referred to by counsel for Mr. LORIMER, the court, in speaking of the qualifications of an elector, held:

When a witness refused to testify on the ground that his answers might tend to incriminate himself, his admissions as to his qualifications and how he voted were proper to be shown. Testimony of this nature is admitted, contrary to the usual rules of evidence, perforce of circumstances, as being the best evidence obtainable. It goes in for what it is worth as tending to enlighten the court as to the situation, and is justified on the ground that its exclusion might defeat the ends of justice.

It is true the committee received statements from these different members of the legislature as to the receipt of money. But you can not draw the line anywhere. The admissions of a deceased person would be alike admissible in this case.

In the same case, from which I have already quoted, Twenty-third Wisconsin, page 310, the court further said:

A person who has voted at an election is always considered as a party when the result of the election is in controversy, and on that ground his declarations, voluntarily made, are admissible. It is considered to be a question between the voter and the party questioning his vote, and not merely between the party holding the office and him who claims.

The principle was clearly recognized by the committee in examining living persons in relation to their acts and admissions. And there is no reason why the rule should not have been extended in the case of a deceased person. On this question the law as stated in the American and English Encyclopedia of Law, volume 9, page 8, is as follows:

Declarations or statements, whether verbal or written, made by a deceased person at variance with his interest, as to facts of which the declarant is presumed to have had a competent knowledge, or which it was his duty to know, are, if pertinent to the matter of inquiry, admissible in evidence as between third parties, whether made at the time of the fact declared or afterwards.

The declaration of a legislator, especially when the question of bribery or corruption is involved, is thus considered as against his interests and is placed on the same footing as testimony relating to a pecuniary interest.

The rules as above stated make admissible testimony relating to any admissions of Luke.

Mr. BEVERIDGE. Mr. President, may I here ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Indiana?

Mr. BURTON. Yes.

Mr. BEVERIDGE. Under the authority just read, does not the Senator think that the statement of Beckemeyer to Gray, who identified him at the bank, as to where he got this money, and all about the transaction, should have been admitted?

Mr. BURTON. It seems to me so, under settled rules of law.

Mr. BEVERIDGE. And also the testimony of Mr. Murray and Ford, who would have testified to the same effect as to which the committee refused to permit Mr. Gray to testify?

As I remember that circumstance, it was that Beckemeyer, soon after this, deposited several hundred dollars in a town where he did not live, one of the bills being a $100 bill, and had Mr. Gray, a business man, identify him, and when Mr. Gray asked where he got this money, a bill of an unusual amount, he answered—but the committee would not permit Mr. Gray to testify. So I was wondering whether under that authority the Senator thought the declaration should have been received.

Mr. BURTON. Whether admissible under that authority or not, it seems to me the committee was not limited to any strict rules of evidence. Those of us who belong to the legal profession of course take pride in the magnificent framework built up in the laws of evidence, but there is always danger that a lawyer, like anyone else, will rely too much upon his profession and be governed by strict literal rules.

Dr. Johnson, in his life of John Milton, calls attention to the discussion between Milton and Prof. Salmasius, of the University of Leyden, an instructor in the classics and ancient languages. They were involved in a dispute in the Latin language as to the justifiability of the execution of King Charles I. Both were great linguists and grammarians. All at once they turned aside from the controversy upon the divine right of kings and the diviner rights of the people into a wrangle about the gender of a Latin noun. That illustrates how a person may go astray if he clings too closely to the rules of his own profession or of his own trade.

Counsel for Mr. LORIMER in his brief asserts that the testimony of the members who were bribed can not be received or considered. He states that for more than 2,000 years the law has been that such testimony is illegal testimony. As this statement is seriously made, it is worthy of passing attention, because it would absolutely exclude the evidence of four or more witnesses who admit that they received money from Mr. Browne or other friends of LORIMER.

It is said in the brief, in a quotation from Mr. Greenleaf on Evidence, that infamous persons are not competent witnesses (sec. 372). It is somewhat surprising that this contention that these witnesses could not be heard should have been made in this investigation. Whatever interest rulings of this nature may have to the antiquarian, or in tracing the history of the law, no one can assert that any such rule now prevails. It belongs rather to a crude state of society. To maintain it would mean that the most serious offenders against the public must go unpunished, because the only persons who could prove the crime must be excluded from the witness stand. It ignores the difference in the comparative guilt of those engaged in the same unlawful enterprise. It regards the man guilty of a crime as absolutely an outcast, and disregards alike his reformation and the welfare of society. It closes the door of repentance for the criminal, even for him who has been misled by the superior influence of others into doing something against which his better judgment rebels. Thus, in almost every State the law is both more humane and more conducive to the public good.

There have been three successive steps in abolishing or limiting the old doctrine:

First, the witness is not ineligible to testify until he is declared guilty, and that is made applicable even after a man had pleaded guilty, but before sentence.

The second limitation on the rule is that it applies to a witness only in the jurisdiction in which he was condemned; that is, if he was condemned in Missouri he would nevertheless be admissible as a witness in Illinois, or if condemned in a United States court in Illinois he would, I take it, nevertheless be admissible as a witness in a State court.

The third step is the passage of statutes by nearly, if not all, of our States to the effect that while the question of condemnation for an infamous crime may affect the credibility, it does not affect the admissibility of the testimony of a convicted person. Under the enforcement of this rule not infrequently we hear of witnesses brought from the penitentiary into the court room to testify. I only refer to this briefly, because it shows one form of contention which was resorted to in this case.

Mr. President, in reviewing briefly the evidence I desire to be entirely fair to Mr. LORIMER. I esteem him as an honest man in his business transactions, loyal to his friends, excellent in his domestic life. No one in this Senate can speak with a greater degree of good will for him than I, and I am frank to admit that in the first survey of the evidence I thought the facts and circumstances were in his favor. To be just, I will repeat some of the arguments that impressed me.

The first was the fact that there was a contest over the speaker at the beginning of that session. The friends of Gov. Deneen had nominated in the Republican caucus a man other than the speaker of the preceding house. A minority of the Republicans joined with the Democrats in defeating that choice of the caucus. Thus arose a line of cleavage distinct from and independent of party affiliations. It manifested itself in the proposed Lakes-to-Gulf deep-waterway legislation, about which there was a great deal of interest in Illinois. Friends of Gov. Deneen desired that the State of Illinois should proceed with the waterway without the concurrence of the Federal Government. Mr. LORIMEER'S friends opposed that. Gov. Deneen's contention was adopted in the senate, but when the bill went to the house it was defeated, or rather another substituted in its place.

A great deal is said also about the time that had elapsed—11 months or so—before any charges of corruption were made, though it should be said in this connection that on the very day of the election, as pointed out by the Senator from Idaho, there was the gravest suspicion, and the voice of rumor was rife all through the State of Illinois from that time on. Suspicion also was visited upon every man who had voted contrary to his political affiliations.

Another ground which might be alleged in Mr. LORIMER'S favor is that the testimony of witnesses against him was false.

A great deal of time has been taken up in dwelling upon the turpitude of Mr. White. There is nobody here willing to defend Mr. White. It is evident he was a legislator in whom there was guile; that he was a spendthrift; that he was ready to get money by illegitimate means. But what else was he? He was a part and a parcel of a coterie, an aggregation of legislative brigands, none of whom were any better than he. In order to be entirely fair to Mr. White, we should ask the question: What would he have done and what kind of a man would he have been if he had not been a member of the Illinois Legislature in the year of grace 1909? But it is claimed that the other three men who confessed to receiving bribes denied it before the grand jury, and the record is interspersed with their statements made before the disclosure to the effect that they received no bribes.

But, Mr. President, we can believe them, nevertheless. When we say that a man is never to be believed who denies that he received the money that was to corrupt his judgment we absolutely ignore great facts in human nature. There are some who speak of all crimes as alike in their culpability. Some philanthropists would not stop to inquire what crime the man is guilty of who is in the prisoner's dock. But there is a great difference in crimes; at least in the disposition of the man who commits them, and especially in the probability that he will confess. A distinguished advocate in addressing a jury said that there should be less consideration for the man who was guilty of libel than for the highway robber who holds up his unoffending victim on the road. The latter had nerve; the former had none, but was actuated by recklessness, by envy, or by hate.

So, if you go through the whole gamut of crime, you will find none that involves the depth of baseness and lack of self-respect that attaches to him who receives a bribe. The man who is guilty of assault may, with a brutal, half barbarous disposition, gloat over his physical strength; the pickpocket may have some satisfaction in his manual dexterity; the cheat may congratulate himself because of his superior intellectual acuteness; but where does the bribe taker get his satisfaction? In every human being, however degraded, there is some pride, some regard for his independence and honor. But pity the poor bribe taker! He recognizes that he has thrown honor and self-respect to the winds and that nothing but infamy dwells in his soul. He is oppressed by the secret of what he has done. Every eye that is focused on him seems to him a detector that will find his guilt. Even among his loved ones he thinks how little love and affection they would have for him if they knew the terrible truth. Along with it all there is the fear of detection—of the time when his shame, his crime, will be exposed to the light of the noonday sun.

Thus the gold that warped his judgment and corrupted and debased him preys on his soul. He is in terror while hesitating between the torment of concealment and the infamy of his deed if made known to the world. In his struggles he must confess, and then, like a sudden explosion, his heart forces his mouth to speak in words which tell of his turpitude, and the burdened soul cries for mercy.

So, Mr. President, in view of the universal condemnation visited upon one who has received a bribe, no man would confess he was guilty of such an act unless it were true. But you can not always believe the man who denies he was bribed; and some little criticism, I think, rests upon the report of the committee in that regard. They do not altogether distinguish between the credibility of the man who denies an act of bribery and one whose soul has made him confess.

Now, Mr. President, let us come to the evidence in this case, and consider it in the light of the first proposition, namely, that if the candidate himself, or any authorized agent, was guilty of misconduct in connection with the election, proof of such misconduct would invalidate the election. The evidence shows that a member of that legislature (Mr. Shephard) was approached by Mr. Browne with the request that he vote for Mr. LORIMER. "No, no," he said; "I can not do that." But when pressed further, he said, "There is only one condition upon which I would do it," and that was that Mr. LORIMER should prevent the appointment to the post office in Jerseyville of either of two persons, saying they had attacked, yes, maligned, him for years. Mr. Browne at first did not seem to understand the political complexion of that congressional district. He thought it was Republican, and that the promise

was impossible. But later he returned in a more cheerful vein and said, "Yes; you can see Mr. LORIMER, and he will tell you in regard to it."

This is of such importance that I feel like reading some of the testimony in regard to it.

Henry A. Shephard, a member of the house, testified that Browne approached him and stated, "There is going to be something doing in the election of a United States Senator;" that LORIMER was to be elected, and asked him (Shephard), "Could you vote for LORIMER?" *Shephard replied*, "No, indeed, I could not." He then added that there was only one thing which could induce him to consider it, namely, if he could prevent a fellow who was a candidate for the post office in his town (Jerseyville) from being appointed. This was perhaps a week before the election of the Senator. On the day of the election Mr. Browne came to him and called him to the back of the assembly room, and asked him to vote for LORIMER, recalling the conversation about the appointment of the postmaster at Jerseyville, saying that he had supposed that there was a Republican Congressman in that district, but instead the incumbent was a Democrat, so that it would be up to the Senator to make the appointment.

Mr. Browne then added:

Mr. LORIMER will make me the promise you want.
SHEPHARD. Do you suppose that he would make me that promise?
Browne answered, "He will and he will keep it."
Shephard responded, "I will go back and see if he will."
Mr. Shephard then went to the speaker's room. Mr. Browne started to introduce him to Mr. LORIMER. Mr. LORIMER said, "I know Mr. Shephard." Mr. Shephard then stated to LORIMER that he was "a rock-ribbed Democrat, and that nothing could induce him to vote for him (LORIMER) except to prevent the editor in Jerseyville, who had maligned him for nine or ten years in his newspaper, from obtaining the post office. The editor was then the deputy postmaster. Shephard also objected to the reappointment of the postmaster, and said, "If you will promise me that neither Mr. Richards nor Mr. Becker shall be made the postmaster, I will vote for you." Mr. LORIMER replied, "I will promise you to do all in my power to prevent them from being appointed." It seems that Shephard was very insistent. He asked, "Will it be up to you to make the appointment?" LORIMER answered, "I shall certainly have my share of the patronage if I am elected Senator, and there is no doubt but that I can fulfill my promise to you." Shephard said, "I will vote for you, Mr. LORIMER, for Senator."

The bargain was made then and there.

Mr. Shephard added that he relied on this promise and was relying on it at the time he gave his testimony, and that promise was the consideration and the only cause of his voting for Mr. LORIMER (pp. 317–318).

I am perfectly aware of what is said of such transactions. I do not believe they are as prevalent as commonly thought, but this was none the less a violation of the law in regard to bribery. It is a well-known fact that Senators and Representatives, if of the same party as that of the administration, not only recommend but also virtually select postmasters. In the performance of that duty the Government, as well as the people, is entitled to have competent and honest men selected as postmasters. In this case it appears that the deputy postmaster was already in office, and I am not sure but the postmaster himself, and a promise of that kind might deprive the post-office service of the man best qualified for the position.

As to whether that was an act of bribery or not, I want to read a selection from the statute of Illinois on this subject:

Whoever corruptly * * * gives any money or other bribe, present, reward, promise, contract, obligation, or security—

I am leaving out the immaterial portion—

* * * to any legislative, executive, or other officer * * * with intent to influence his act, vote, * * * or judgment * * * on any matter which may be then pending—

What was then pending? The election of a United States Senator—

or may by law come or be brought before him * * * shall be deemed guilty of bribery.

I furthermore contend that it is perfectly plain from this statute that if an agent, even without the concurrence or against the will of the principal, is guilty of bribery, that invalidates the election on the first ground that I have mentioned.

I now take up the testimony of Lee O'Neil Browne. I do not believe that it is worth while to take the time of the Senate in showing the character of this man. We have had certain defenses of him here. It is said that he knows and believes the Scriptures from cover to cover. There is one passage that he evidently used as his motto with his associates, namely:

We shall fill our houses with spoil. Cast in thy lot among us; let us all have one purse—

That is, one jack pot.

Mr. SMITH of Michigan. Mr. President——

The VICE PRESIDENT. Will the Senator from Ohio yield to the Senator from Michigan?

Mr. BURTON. Certainly.

Mr. SMITH of Michigan. Before the Senator from Ohio passes from the Shephard testimony I should like to ask, in view of the uncontradicted testimony that Mr. Shephard and Mr. LORIMER had the conversation referred to and that the promise named was then and there made, whether, in the opinion of the Senator from Ohio, if that fact stood alone, admitted or proven, it would vitiate the election.

Mr. BURTON. I say so. It seems a very strong proposition. I presume the fact is that if that matter was ever fully investigated there would be other instances of a similar nature in that senatorial election.

But what was Browne's connection with LORIMER? They were constantly associated during the last week or two prior to this election, Browne conferring with LORIMER every night, and frequently several times a night, as he himself testified. One by one Browne reported to LORIMER the names of his faction who promised to vote for him. It is thus evident that LORIMER was relying upon this man for the distinct purpose of obtaining through him votes from the Democratic camp.

Can you separate those two men, thus engaged in the same plan, with the same object, and in constant communication? Can you say that the one is guilty, but the other innocent? Can you make such an assertion in the face of the undoubted rule of law that if an agent is guilty of an act of bribery, even if without the consent of the principal, or even against his will, it is nevertheless the act of the principal?

So, I say, under the first proposition, there is a clear case made against the incumbent of this seat, in that both he and his agent were guilty of corrupt practices.

I have already dwelt at some little length on the second ground previously mentioned. Before again passing to that I would say—and I stated with all the precision I could the arguments in favor of Mr. LORIMER'S title—that we should consider, on the other hand, whether that deadlock was not the result of a shrewd design, and whether that nonpartisan division was not the means of accomplishing what was done, and did not show a well-concocted plan.

In this connection I mentioned the fact that although it was not detected until afterwards there were suspicions of corrupt practices much earlier. Let us consider for a moment the course of these bribe givers. They were too shrewd to pay this money while the legislature was in session. The stamp of experience attaches itself to all their acts. Why did they not pay it immediately to the members of the legislature? They were afraid somebody would become intoxicated and give it away or that some sleuth would detect them. The electric light of publicity was upon them. They knew it was not safe to pay over the money at once. They decided to wait awhile. And when the money was paid, they were cautious in their transactions for fear of detection. They turned aside from banks. They did not draw any checks. The money was carried in some convenient form of currency and worn in belts around the body.

Still another thing, large as the State of Illinois is, most of them did not think it desirable to make the payments inside of the State. They must cross over the river to St. Louis.

Just see how all this clearly proves from the very start a design to avoid detection, to cover their tracks, to manage this proceeding in such a way that they could avoid the law and shield the election, no matter to what extent it might be tainted.

I come now to the evidence relating to the second point, namely, the number of persons influenced by corrupt motives. But before entering upon that, I wish to take up the matter of the two fake letters sent by Wilson to Beckemeyer and Link. These, I believe, have not been considered in detail by anyone from this floor.

It seems that in May, 1910, Beckemeyer and Link received two letters from Mr. Wilson dated June 26, 1909. Wilson stated in the letter that a banquet was proposed for Mr. Browne, and he wanted to meet them in St. Louis in regard to it. He was going down to attend a meeting of the submerged land commission.

We have the testimony of two witnesses in this matter, one testifying directly, Mr. Beckemeyer, the other indirectly, Mr. Link; the former says that he met Wilson by appointment at Springfield as soon as certain disclosures were made and consulted with him as to the advisability of writing such a letter. This shows they were afraid of detection. They had a burning desire to conceal the real reason of their meeting at St. Louis in July, 1909, namely, the payment of bribes. The latter testifies through Wayman, the State's attorney, that he knew the letter sent to him was a fake. Both letters, dated back to June 26, 1909, were sent out in the early part of May, 1910.

Senators, that is an act that would go far to hang a man. Few persons would dare do anything of that kind lest it should become known and every voice in the air would cry out "Guilty!" "Guilty!" "Guilty!" They were seeking to avoid the effect of their guilt by this flimsy and, I think, not very intelligent scheme to pretend that they went down to St. Louis the preceding year to arrange a banquet, two or three months after the adjournment of the legislature and when they had all

scattered. Why was it necessary to go out of the State of Illinois into another State? Yet this claim was made despite the admission of Mr. Wilson, who wrote the letters, that this submerged land commission to which he referred as the occasion of his going to St. Louis did not meet until August 24 or August 25 of the same year.

It is true he denies sending these letters in May, 1910, but what kind of a witness is he? In the first place, he found it convenient to be outside of the State of Illinois, and I am not sure but in a foreign land while this Senate committee was in Chicago.

Mr. BEVERIDGE. He was in Canada.

Mr. BURTON. He was in Canada, a place where those who desired to avoid military service during the Civil War were wont to go. Canada is a most excellent and progressive neighbor of ours to-day, but it has gained some mention as the haven of defaulting bank cashiers.

Mr. BEVERIDGE. He said he went there because he had nervous prostration and it was a good place.

Mr. BULKELEY. On account of his eyes.

Mr. BEVERIDGE. For treatment of his eyes.

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Indiana?

Mr. BURTON. Certainly.

Mr. BEVERIDGE. The Senator from Connecticut says he went there for treatment of his eyes. I think the testimony shows to Milwaukee in another State. Perhaps I am wrong, but I think the testimony shows that he had recourse for the cure of nervous trouble to Toronto, not Chicago.

Mr. BURTON. His conduct was a reflection upon the very able physicians in the United States and shows a failure to sufficiently appreciate the excellent health resorts of our country to which he might have gone. But in any event it is a clear pretense. But to return to the point. Wilson went down to St. Louis. Three of the men who were there said that he gave them money; that he took them into a bathroom where he disbursed it. If they were consulting about a banquet, why did they not sit down about a round table and determine the details in the usual way? Again, it appears that Browne was expecting to go to St. Louis at this time, but was prevented by illness. It seems strange that Browne should plan to participate in a meeting called to arrange a banquet in his own honor. The story is too absurd.

Perhaps one advantage in going to St. Louis lay in the fact that there were hotels there in which the rooms were so arranged that one by one these men could go individually and receive the spoils of their perfidy. Then when Wilson is asked about this banquet to Browne he says Browne had disapproved of it before he went to St. Louis. In spite of the fact that Browne said, "I do not want any banquet; it will promote factional difference," Wilson takes the train to St. Louis and meets these men one at a time. When brought before the subcommittee his head is as vacant and his mind as blank as that of an imbecile. He can not remember a single word that was said about a banquet while he was at St. Louis.

Why, Senators, I do not believe there is a single item of evidence in this whole hearing which would go further to carry conviction than those two fake letters. People do not do a thing of that kind unless they are covered all over with some guilt which they desire to hide.

Now, about the receipt of money. Four persons admit that they received bribes, three at one place and one at another. That testimony has been set forth at such length that I do not feel like detaining the Senate with a further exposition of it. These men would not have admitted the receipt of bribes unless they had received them. If, under sudden fright, they had made such a confession, and if it were not true, when they returned to their homes and faced their old friends and neighbors they would relieve themselves of the terrible weight of disgrace and turpitude by taking the first opportunity to deny the confession. Not one of them has denied it yet.

It is true that the bribe givers deny it, but their testimony is so inconclusive, the number of witnesses against them so overwhelming, that these denials should have no weight, especially where the money that Holstlaw received is found to have been deposited in a bank within an hour; and the money received by others is traced either to the banks or to the custody of some friend of the recipients.

It is certainly an unusual event that several of these men, who were confessedly impecunious and who received only $2,000 as their salary for the whole term—I think $1,000 a year—should have received this sudden addition to their finances. They had already drawn their salaries.

I come now to the third ground for declaring this election invalid—the existence of bribery and fraud, the extent of which can not be measured. I have already dwelt somewhat at length upon this. The testimony shows the existence of a nonpartisan combination in the Illinois Legislature, in which legislative duties were absolutely ignored and dishonest advantages sought.

The whole record is interspersed with accounts of departures from party affiliations, fake letters, jack pots, bathroom conferences, unlawful promises relating to office, hurried conferences, and frantic efforts to cover their tracks and escape from the consequences of their wrongdoing. It is connected also with the receipt of bribes and with general corruption in the legislature. Who will say, in the face of all this evidence, that any election by that legislature would be a sound and a valid one? The whole air was full of corruption. It is impossible to separate the false from the true, the honest from the dishonest votes.

So, on a ground which is perhaps in a measure new in this debate—the general existence of corruption at that time—I maintain that this title was invalid. It is but following a universally accepted principle relating to fraud, to the effect that the contract, the transaction, or in this case, the election, must be impeached by circumstances which render it uncertain and incapable of proof.

There is a presumption in favor of this conclusion the moment an element of fraud is injected into the transaction. Would anyone enter upon a scheme of this kind and stop with the bribing of one person? Would Browne and the rest put their heads into the jaws of punishment unless they were to bribe enough to accomplish the purpose they had in mind? Men do not run such frightful risks unless they are sure they can accomplish what they are seeking.

This idea gives strong support to this third principle which I have laid down, namely, that an election is void if such an element of fraud and uncertainty attaches to it that you can not be sure of the result.

In the report of the committee, it seems to me, there was unjust criticism of Mr. Wayman and the State's attorney's office in Chicago. We deplore the amount of crime that goes unpunished, and who shall be blamed for using diligence and even vigilance in running down offenders against the law? Sometimes prosecuting officers, police, and others may show an undue or injudicious vigilance, but how is it possible by that to convict an innocent man? We may condemn any extreme or oppressive methods. But criminals should be brought to justice.

A very earnest lawyer asked an eminent Georgia judge to charge the jury that it was better that 99 guilty should escape than that one innocent man should suffer. "Yes," remarked the court, "I will give that charge, that it is better for 99 guilty to escape than for one innocent man to suffer; but I am compelled to add the statement that in this jurisdiction the 99 guilty have already escaped." [Laughter.]

So we should be slow in condemning honest efforts made in the State's attorney's office, even though they be so severe that they cut to the quick.

Again, I do not see that they resorted to any third-degree methods. The confession of Link, in the first instance, of the offense for which he was to be prosecuted for perjury, was not a statement that he did not receive money, but that he did not go to St. Louis at a certain time. Wilson, Shephard, and other witnesses testified that he had been there. It was evident that this man had told a falsehood so bald and palpable that everyone knew he was guilty of perjury. Can you blame the prosecutor who under such circumstances as that holds up before the perjurer the consequences of his wrongdoing?

But there is another point in connection with this. When this testimony was being heard before the Senate committee, Mr. Wayman and his assistants came to the rooms of the committee and desired to be heard. But the opposing counsel said, "We are not trying the State attorney's office," and they did not take the testimony of the assistants, who had known most of the methods complained of.

It seems to me it is unjust to Mr. Wayman to accuse him of having used oppressive methods when, first, he was acting in good faith to detect and punish crime, and when, in the next place, he and his assistants were denied a full examination and hearing on the subject. It was very generally believed in the State that a crime of unusual enormity had been committed, and the State and the Nation demanded that we bring the guilty to punishment.

I think the Senator from Texas [Mr. BAILEY] unwittingly did a wrong to the Senator from Illinois [Mr. CULLOM] in an intimation that if this election of Mr. LORIMER was not valid the prior election of the senior Senator from Illinois was not valid. Mr. President, the senior Senator from Illinois was nominated at a primary in which he had 50,000 or more plurality, a primary of the whole State of Illinois. When it came

up to the legislature there was not a Republican in the body but who cordially, openly, and without question cast his vote for SHELBY M. CULLOM for United States Senator for the next six years. He did not receive a single Democratic vote, a fact which in itself casts doubt upon certain votes received by Mr. LORIMER.

I think it is hardly fair, even in the remotest degree, to throw out any intimation that the title of Senator CULLOM could be questioned. For more than 50 years the senior Senator has served the State of Illinois and gained the highest honors which it could bestow. He was a member of the State legislature, speaker of the house, Representative here in Congress, governor of Illinois, and he has been a United States Senator for nearly 30 years. We all prize him as a member of this body, and we regard him as next in the esteem and affection of the people of Illinois to him who dwells on an unapproachable height, Abraham Lincoln, to whose career his own bears so many points of honorable resemblance.

The attempt has been made to show that, under the contention of the opponents of Mr. LORIMER, if there should be any dishonest combination in a legislature the election of a Senator could not stand. In other words, if there was bribery about legislation the election of a Senator could not be valid. That is not the question before us, Mr. President.

The question before us is one of corruption all along the line, corruption in regard to legislation, but of far greater importance than that, corruption affecting the election of a United States Senator. It is conceivable that men would accept a bribe in regard to legislation and refuse one when it came to the election of a Senator, but it is not necessary to discuss that question in this case.

There is much other testimony in this case, Mr. President, upon which I might have dwelt, but I do not now wish to take the time of the Senate in reviewing it, particularly because other Senators have already gone over the ground, no doubt more clearly and ably than I can do. But there is one lesson to be drawn from this election upon which I desire to comment. The action of the Illinois Legislature was but one manifestation of corruption in elections in this country. When I say that, I do not believe there is by any means as much corruption in legislatures or in the voting precincts at general elections as many people believe, but there is altogether too much of it. That which probably presents an unusual opportunity for bribery in Illinois is a peculiar form of electing State representatives under which where three are to be chosen one may be selected from the minority party. This plan was advocated some 35 or 40 years ago by some very good men. But the result of such a system is that integrity and character as qualifications of legislators will be rendered subordinate to partisan considerations in making a choice.

Another effect of this plan is an unusual grouping together of Republicans and Democrats in one district, and graft knows no party when there is an unprincipled or unscrupulous end to be accomplished. If there is a fallow ground for it and force and ability enough behind it, it can bring to its support men of all parties.

Legislative bodies have no monopoly in disclosures of bribe taking and dishonesty. Townships, counties, and cities have shown the blight of fraud. In a way LORIMER is but an incident. Those who seek office are not alone to blame. The selfish elector who seeks some special privilege or consideration for himself, and the indifferent voter who rails at corruption but takes no part in curing it, alike must share the responsibility for present conditions. The time has come when this must stop, or the Republic is in danger.

In this debate reference has been made to a county in my own State—the county of Adams. I would not for a minute extenuate the prevalence of bribery in that county, but I think it is due to those people that I should say a word, at least, in explanation of conditions which have prevailed there. It is a county more remote from the great lines of communication than any other county in Ohio, a county which is close politically, one in which of late there has been a large population made up of those who stay there but temporarily, and who have but little interest in the general welfare or standing of the community or the county. Years ago this condition had developed: There was no industrial growth in the county; most of the farm lands were inferior, and the greatest prizes to be obtained were county offices. The custom of engaging workers to bring out the vote was inaugurated, a system which is made necessary, Mr. President, by the negligence and inattention of the average elector. It was necessary to hire teams to secure a complete vote. By easy stages from that there was an occasional instance of bribery. Those poor people, remote from the great throbbing centers of population, fell into customs, the guilt of which they did not understand; yet in spite of this I want to say they are a sturdy and a religious people. Almost every male of serviceable age enlisted in the Army in the Civil War. Their greatest error was the very prevalent idea that a different standard of honesty obtains in politics from that which should govern in commercial or domestic life.

After this era of debauchery of the ballot, they realize their guilt, and are seeking their own regeneration under the lead of a judge, a prosecutor, and a grand jury, who are administering justice with even hand, and declaring that no guilty man shall escape. They have needed no congressional committee to go among them to find out the facts. They are bringing to light the evils which exist among them, and where wrong exists they have punished it. No doubt they have been very much influenced by sensational articles, which are spread broadcast, to the effect that corruption is rife everywhere in public life; no doubt they have also been influenced by the darts of slander, which are often aimed at public men. Yet they now realize the full culpability of what they had done.

But, Mr. President, if there is a responsibility anywhere for the destruction of corruption in elections, it is with this Senate. Wealth and power have not been sufficient to retain a seat in this body in the face of corruption. The wealthiest man who ever was a Member of this body resigned when proof accumulated against him, not of acts of his own, as I understand, but of those who were friends of his, who, no doubt, had used his money in corrupting members of the legislature of his State.

Whatever accusations may be raised against this body it has a record of honor. In the midst of turmoil, unmindful of sudden gusts of erroneous public opinion, the Senate stands as the strongest bulwark of the Republic. But to maintain that reputation we must be free from the sullying influence of any membership that is tainted by fraud. We must emphasize the responsibility of the elector and of the lasting necessity for the purity of the ballot in all elections. We honor and glorify the flag. Even a failure to salute it has led to protest and to diplomatic correspondence. There are those—yes, a multitude—who would be willing to die for it; but, after all, the flag is but a symbol. The real source of power, the source of security, the determining factor which shall decide whether this Republic shall exist in its strength and retain that splendid position of progress and leadership which it has enjoyed is the voter. If we strike at the ballot box, if we allow corruption, with its ominious head, to creep into the legislative halls of any State, then clouds hover over our future. It is for the Senate of the United States, from its seat of honor and power, to declare that its record must be free from taint and to register its judgment for the principle that nowhere shall a dishonest vote or a dishonest count be tolerated.

During the delivery of Mr. BURTON'S speech,

The VICE PRESIDENT. Will the Senator suspend for a moment? The Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. R. 134) proposing an amendment to the Constitution, providing that Senators shall be elected by the people of the several States.

Mr. BORAH. I ask that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. The Senator from Idaho asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The Senator from Ohio will proceed.

ARMY APPROPRIATION BILL.

Mr. WARREN. I ask the Senate to proceed to the consideration of the bill (H. R. 31237) making appropriation for the support of the Army for the fiscal year ending June 30, 1912.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Military Affairs with amendments.

Mr. WARREN. I ask unanimous consent that the formal reading of the bill be dispensed with, that it be read for amendment, and that the amendments of the committee be first considered.

The VICE PRESIDENT. Is there objection to the request of the Senator from Wyoming? The Chair hears none.

Mr. WARREN. Mr. President, I ask that the statement which I send to the desk may be printed in the RECORD at the commencement of the consideration of the Army appropriation bill.

The VICE PRESIDENT. Without objection, the statement will be printed in the RECORD.

The statement referred to is as follows:

Amount of original estimates for the military establishment, fiscal year 1912 (Book of Estimates, pp. 167–193, 312)		$92,403,231.73
Amount of supplemental estimates (H. Docs. Nos. 1235, 1238, 1320)		870,000.00
To which the House of Representatives added the following items, approved by the War Department:		
For Signal Service of the Army	$125,000.00	
For exchange and issue of pistols, etc., Organized Militia	300,000.00	
		425,000.00
Total		93,698,231.73
Amount of bill as reported to House of Representatives		93,111,385.98
Deducted during consideration by House:		
Under heading "Horses for Cavalry, Artillery, and Engineers"	$200,000.00	
Under heading "Shooting galleries and ranges"	.01	
	200,000.01	
Added during consideration by House:		
Under heading "Signal Service of the Army"	125,000.00	
Net decrease		75,000.01
Amount of bill as passed by House of Representatives		93,036,385.97
Increase recommended by Senate committee (see items following)		642,200.00
Total of bill as reported by Senate committee		93,678,585.97
The increase recommended by your committee is made up of the following items, all of which are covered by the Treasury estimates:		
For travel allowance to enlisted men on discharge		150,000.00
For clothing due enlisted men on discharge		150,000.00
For mileage to officers and contract surgeons		25,000.00
For horses for Cavalry, Artillery, and Engineers		200,000.00
For water and sewer at military posts		67,200.00
For Alaska roads, bridges, and trails		50,000.00
Total increase recommended		642,200.00
Amount appropriated for the fiscal year 1911		95,440,567.55
The bill as reported carries less than the amount appriated for the fiscal year 1911		1,761,981.58
The bill as reported carries less than the estimates plus items approved by War Department and added by House of Representatives		19,645.76

The VICE PRESIDENT. The Secretary will proceed to read the bill.

The Secretary proceeded to read the bill.

The first amendment reported by the Committee on Military Affairs was, under the subhead "Office of the Chief of Staff," in the item of appropriation for the maintenance of the Army War College, on page 2, line 7, after the words "militia affairs," to strike out "in the War Department" and insert "Office of the Chief of Staff," so as to make the proviso read:

Provided, That hereafter the Chief of the Division of Militia Affairs, Office of the Chief of Staff, shall be detailed from the general officers of the line of the Army, and while so serving shall be an additional member of the General Staff Corps.

The amendment was agreed to.

The next amendment was, under the subhead "Office of the Chief Signal Officer," in the item of appropriation for the maintenance of the signal service of the Army, on page 5, line 20, after the word "maintenance," to insert "operation," and in the same line, after the word "aeroplanes," to insert "and other aerial machines," so as to make the proviso read:

Provided, however, That not more than $250,000 of said amount shall be used for any purpose except the purchase, maintenance, operation, and repair of aeroplanes and other aerial machines.

The amendment was agreed to.

The next amendment was, under the subhead "Pay of officers of the line," on page 6, line 10, after the word "dollars," to insert:

Provided, That the accounting officers of the Treasury, in the settlement of claims, shall not stop against the amount found due the payments for exercise of higher command which were made between April 26, 1898, and March 18, 1907, in accordance with regulations and decisions then existing: *Provided further*, That where disallowances or stoppages on account of pay received for exercise of higher command between said dates have been made in the settlement of claims, the Auditor for the War Department is hereby authorized and directed to reopen said settlements and to credit the claimants the full amount due on their claims: *And provided further*, That nothing herein contained shall be construed as authorizing the accounting officers of the Treasury to allow any claim for increase of pay for the exercise of a higher command between the dates of April 26, 1898, and March 18, 1907, which may now be pending or hereafter presented, except in accordance with the decision of March 18, 1907, of the United States Supreme Court in the case of Donn C. Mitchell.

The amendment was agreed to.

The Secretary continued the reading of the bill, and read the clause on page 7, from line 7 to line 9, inclusive, as follows:

For pay of officers for length of service, to be paid with their current monthly pay, $1,599,570.

Mr. BACON. Mr. President, I should like to make an inquiry of the Senator in charge of the bill. Does the item which has just been read at the Secretary's desk include claims of officers whose pay in the past has been remitted in this regard?

Mr. WARREN. It includes only the settlement of such accounts as have already been paid but are now held against certain officers.

Mr. BACON. The Senator misunderstands me. I am speaking of the provision found in lines 7, 8, and 9. I asked the question for the reason that I have had some letters from——

Mr. WARREN. Does the Senator mean what follows the amendment?

Mr. BACON. Yes.

Mr. WARREN. That makes provision only for the standard, legal, current, longevity pay. The law provides that a certain percentage, up to a maximum of 40 per cent, shall be added every five years to the pay of each commissioned officer of the Army.

Mr. BACON. Does it include all officers who in the past possibly may not have received the additional pay? Are they now to be provided for?

Mr. WARREN. It is intended to cover only longevity pay that may accure during the fiscal year 1912. Any back claims on this account will have to be passed upon by the regular auditing force, and if the Senator from Georgia alludes to old longevity pay claims which have been disallowed years ago, they must be matters of legislation as "claims."

Mr. BACON. And if passed upon by the auditing force, would this provision cover such claims?

Mr. WARREN. No; this item of appropriation covers only the longevity pay that will be due officers during the fiscal year 1912, and will be paid with their current monthly pay.

Mr. BACON. I am not familiar with the subject, as possibly the vagueness of my inquiry will indicate, but I have had some communications from widows of officers who claim that in the past payments on this account have not been made, and I did not know but what the provision was intended to cover cases of that kind as well as others.

The VICE PRESIDENT. The Secretary will resume the reading of the bill.

Mr. HEYBURN. Mr. President, I should like to recur to the provision on page 5, commencing in line 17, for the purpose of making an inquiry of the chairman of the Committee on Military Affairs as to whether or not any limitation is placed upon the amount of $375,000 that may be paid for airships. In the way the provision reads, as I understand, there is no limit whatever placed upon the amount that may be paid for airships.

Mr. WARREN. The entire appropriation is $375,000. The proviso stipulates that not more than $250,000 of that $375,000 shall be used for purposes other than the purchase, repair, and so forth, of airships, leaving $125,000 for the airships.

Mr. HEYBURN. No; it reads "for any purpose;" that is the trouble—

Shall be used for any purpose, except, etc.

That, it seems to me, would leave it to the department to expend any part of the $375,000 for the purchase of airships, the limitation only applying to any purpose—

Except the purchase, maintenance, operation, and repair of aeroplanes or other aerial machines.

The limitation there does not, I think, accomplish the purpose which the committee had in view.

Mr. WARREN. I will say to the Senator that, while the language is somewhat awkward, it was inserted on the floor of the House while the bill was on its passage, the amount asked for being increased there $125,000. Then the proviso to which the Senator refers was put in. The department understands and the committee understand that the intention of the House was to provide at least $125,000 for airships.

Mr. HEYBURN. But the bill does not state that.

Mr. WARREN. The Signal Service of the Army, of course, must be supported. I think it will be perfectly safe to leave it in the hands of the department to see that that corps is supported up to the extent of its necessities. The language is, perhaps, not happy.

Mr. HEYBURN. Mr. President, I have no doubt that it was intended to place the limitation upon the amount that might be expended for the purchase of airships, but there is no such limitation here.

Mr. WARREN. Mr. President, that was not exactly the intention, as I learned from the debate in the other House. The House wished to make the amount $375,000—$125,000 larger than was required for purposes other than airships, but they wished also to leave a margin, so that if it might be the desire

of the department to increase the amount in a small way for airships, it might do so. I will not resist an amendment to the language; in fact, may offer one on the part of the committee before conclusion of the consideration of the bill.

Mr. HEYBURN. Well, Mr. President, the language is unfortunate. This provision permits in express terms the expenditure of $250,000 for—

the purchase, maintenance, operation, and repair of aeroplanes and other aerial machines.

That is to say, the limit, but the limit does not apply to the expenditure for airships; it applies only to the enumerated purposes stated in the proviso. I merely call attention to it at this time because I think before we perfect the bill there should be some limitation upon the amount to be expended for airships.

The reading of the bill was resumed.

The next amendment of the Committee on Military Affairs was, on page 9, line 24, after the word thousand, to strike out "eight" and insert "two," so as to make the clause read:

For pay of 6 privates, first class, Hospital Corps, at $18 each per month, $1,296.

The amendment was agreed to.

The next amendment was, on page 10, line 2, after the word "department," to insert "and posts commanded by general officers," so as to make the subhead read:

Pay to clerks, messengers, and laborers at headquarters of divisions, and departments, and posts commanded by general officers, and office of the Chief of Staff.

The amendment was agreed to.

The next amendment was, on page 11, line 22, after the word "departments," to insert "posts commanded by general officers," so as to make the proviso read:

Provided, That no clerk, messenger, or laborer at headquarters of divisions, departments, posts commanded by general officers, or office of the Chief of Staff shall be assigned to duty with any bureau in the War Department.

The amendment was agreed to.

The next amendment was, on page 15, line 1, after the word "For," to strike out "pay of retired officers on active service" and insert "increased pay to retired officers assigned to active duty," so as to make the clause read:

For increased pay to retired officers assigned to active duty, $50,400.

The amendment was agreed to.

The next amendment was, under the subhead "Miscellaneous," on page 15, line 19, after the word "dollars," to insert:

Provided, That hereafter so much of section 20 of the act approved February 2, 1901, as provides that veterinarians shall receive the pay and allowances of second lieutenants, mounted, shall be interpreted to authorize their retirement under the laws governing the retirement of second lieutenants.

The amendment was agreed to.

The next amendment was, on page 17, line 2, before the word "dollars," to strike out "nine hundred and fifty thousand" and insert "one million one hundred thousand," so as to make the clause read:

For travel allowance to enlisted men on discharge, $1,100,000.

The amendment was agreed to.

The next amendment was, on page 17, line 4, before the word "dollars," to strike out "eight hundred and fifty thousand" and insert "one million," so as to make the clause read:

For clothing not drawn due to enlisted men on discharge, $1,000,000.

The amendment was agreed to.

The next amendment was, on page 18, line 3, before the word "dollars," to strike out "six hundred thousand" and insert "six hundred and twenty-five thousand," so as to make the clause read:

For mileage to officers and contract surgeons when authorized by law, $625,000.

The amendment was agreed to.

The next amendment was, on page 19, line 16, before the word "Regiment," to strike out "Provisional," so as to make the clause read:

For Porto Rico Regiment of Infantry, composed of two battalions of four companies each.

The amendment was agreed to.

The next amendment was, under the subhead "Philippine Scouts," on page 20, line 8, before the word "dollars," to strike out "one hundred and seven thousand one hundred" and insert "one hundred and eight thousand one hundred," so as to make the clause read:

For pay of 64 second lieutenants, $108,800.

The amendment was agreed to.

The next amendment was, on page 20, after line 22, to insert:

The President is hereby authorized to appoint the Army paymasters' clerks now in service to be paymasters' assistants in the Army, and hereafter no person shall be appointed an Army paymaster's clerk, but any vacancy occurring in the list of paymasters' assistants whose appointment is hereby authorized shall be filled by the appointment, by the President, of a citizen of the United States who shall be between 21 and 28 years of age at the date of his appointment and who shall have passed a satisfactory examination, under such regulations as may be established by the President, as to habits, moral character, mental and physical ability, education, and general fitness for the service: *Provided*, That paymasters' assistants appointed under the authority hereby given shall have the pay and allowances of second lieutenants, except commutation of quarters, fuel, and lights, and shall be on the same footing as commissioned officers of the Army as to tenure of office, retirement, pensions, increase of pay, and subjection to the rules and articles of war: *Provided further*, That paymasters' clerks who are now in service and who may be appointed paymasters' assistants under the authority hereby given may, after becoming 64 years of age and upon the recommendation of the Paymaster General of the Army and a medical board approved by the Secretary of War, be retained in active service until they shall have reached the age of 70 years: *Provided further*, That each paymaster's assistant shall furnish a bond for the faithful performance of his duties in such sum as may be fixed by the Secretary of War.

Mr. ROOT. May I ask the Senator in charge of the bill if that is not practically providing for an increase in the number of second lieutenants of the Army by appointment from civil life?

Mr. WARREN. They are not to be second lieutenants. They are not to become commissioned officers of the Army. If the Senator from New York will notice the text, he will find that they are not to be entitled to the rank and all the emoluments of a second lieutenant; only partially.

Mr. ROOT. It comes very near it. They are to have the pay and allowances of second lieutenants, "except commutation of quarters, fuel, and lights," and are to "be on the same footing as commissioned officers of the Army as to tenure of office, retirement, pensions, increase of pay, and subjection to the rules and articles of war." It seems to me that is practically making them second lieutenants.

Mr. WARREN. They have no privileges of promotion. They remain during their entire service on the pay of second lieutenants. The provision is quite similar to one made some years ago in regard to veterinarians, and the words "second lieutenant" are used here to modify the extent of their pay, to increase their responsibilities, to require sufficient bond, and also to put them under the discipline of the officers of the Army.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Military Affairs was, on page 22, line 11, after the word "and," to strike out "twelve" and insert "thirteen," so as to make the clause read:

Encampment and maneuvers, Organized Militia: For paying the expenses of the Organized Militia of any State, Territory, or of the District of Columbia, which may be authorized by the Secretary of War to participate in such encampments as may be established for the field instruction of the troops of the Regular Army, as provided by sections 15 and 21 of the act of January 21, 1903, entitled "An act to promote the efficiency of the militia, and for other purposes," to be immediately available and to remain available until the end of the fiscal year 1913, $350,000.

The amendment was agreed to.

The next amendment was, on page 22, line 21, after the word "thousand," to strike out "$736.43" and insert "$834.21;" and on page 23, line 1, after the word "twelve," to insert: "*Provided further*, That said expenditure by Brig. Gen. Rumbold shall be regarded as a payment to the troops by the United States as evidenced by receipted rolls now held by the War Department," so as to make the clause read:

Provided, That for reimbursement to Brig. Gen. Frank M. Rumbold, adjutant general, State of Missouri, on account of expenditure of personal funds advanced by him for making payment to the troops of the State militia who participated with troops of the Regular Army in the joint encampment held at Fort Riley, Kans., under the provisions of section 15 of the militia law, from September 1 to 10, 1910, the Secretary of War is authorized to pay the sum of $10,834.21 from funds heretofore appropriated for "Encampment and maneuvers, Organized Militia, 1910 and 1912:" *Provided further*, That said expenditure by Brig. Gen. Rumbold shall be regarded as a payment to the troops by the United States as evidenced by receipted rolls now held by the War Department.

The amendment was agreed to.

The next amendment was, on page 23, after line 14, to insert:

Upon the request of the governors of the several States and Territories concerned, the President may detach officers of the active list of the Army from their proper commands for duty as inspectors and instructors of the Organized Militia, as follows, namely: Not to exceed one officer for each State, Territory, and the District of Columbia; not to exceed one additional officer for each division, brigade, regiment, and separate battalion of infantry, or its equivalent of other troops: *Provided*, That line officers detached for duty with the Organized Militia under the provisions hereof, together with those detached from their proper commands, under the provisions of law, for other duty the usual period of which exceeds one year, shall be subject to the provisions of section 27 of the act approved February 2, 1901, with reference to details to the staff corps, but the total number of detached officers hereby made subject to these provisions shall not exceed 612: *And provided further*, That the number of such officers detached from each of the several branches of the line of the Army shall be in pro-

portion to the authorized commissioned strength of that branch; they shall be of the grades first lieutenant to colonel, inclusive, and the number detached from each grade shall be in proportion to the number in that grade now provided by law for the whole Army. The vacancies hereby caused or created in the grade of second lieutenant shall be filled in accordance with existing law, one-fifth in each fiscal year until the total number of vacancies shall have been filled: *Provided*, That hereafter vacancies in the grade of second lieutenant occurring in any fiscal year shall be filled by appointment in the following order, namely: First, of cadets graduated from the United States Military Academy during that fiscal year; second, of enlisted men whose fitness for promotion shall have been determined by competitive examination; third, of candidates from civil life between the ages of 21 and 27 years. The President is authorized to make rules and regulations to carry these provisions into effect.

Mr. JOHNSTON. I suppose no amendments are now being considered except those of the committee. This amendment offered by the committee authorizes the increase of the officers of the line by 612, and I think some provisions ought to be inserted so as to give the various departments of the Army proper care in the distribution of them.

The VICE PRESIDENT. The Chair thinks that an amendment to the amendment is now in order, if the Senator desires to present such.

Mr. WARREN. With relation to that, I note that on the House side they have passed favorably upon this matter, except for a somewhat less number, and have provided for a detail to the Quartermaster's Department. I am of the opinion—perhaps the Senator can inform me—that our present laws provide for details to all of the staff departments. The number taken for militia is supposed to be some four hundred and forty-odd to fill the vacancies in the staff.

Mr. ROOT rose.

Mr. WARREN. I see the Senator from New York [Mr. ROOT], the former Secretary of War, is on his feet. Perhaps he can inform us upon that point.

Mr. ROOT. I rose for the purpose of asking a question, whether the point just raised by the Senator from Alabama is not met by this clause of the committee amendment—

That the number of such officers detached from each of the several branches of the line of the Army shall be in proportion to the authorized commissioned strength of that branch.

Unless I misunderstood the point made by the Senator from Alabama, it seems to me that that would meet it. I refer to lines 7, 8, 9, and 10, page 24.

Mr. JOHNSTON. I see that.

Mr. ROOT. I think that would work out to cover what the Senator has in mind.

Mr. JOHNSTON. I will ask that this be added to the amendment.

The VICE PRESIDENT. The Senator from Alabama offers an amendment to the amendment, which will be stated.

The SECRETARY. Add at the end of the proposed amendment the following proviso:

Provided, That 30 of the additional officers herein provided for shall be detailed to service in the Quartermaster's Department, which is hereby increased by two colonels, three lieutenant colonels, seven majors, and 18 captains, the vacancies thus created to be filled by promotions and detail in accordance with section 26 of the act provided February 2, 1901.

Mr. WARREN. Knowing that the Quartermaster's Department is overworked, and not knowing just the effect the amendment to the amendment would have upon the present law, I am willing to accept it and will look up the matter in conference.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, under the subhead "Subsistence Department," in the item of appropriation for purchase of subsistence supplies, on page 25, line 3, after the word "expended," to strike out "to defray the cost of furnishing food, and for providing extra-duty pay for cooks, assistant cooks, and waiters, and for perishable table equipment in subsisting enlisted men of the Regular Army and the Organized Militia who may be competitors in the national rifle match: *And provided further*, That no competitor who is thus subsisted shall be entitled to commutation of rations, and no greater expense shall be incurred than $1.50 per man per day for the period the contest is in progress," and insert "for supplying meals or furnishing commutation of rations to enlisted men of the Regular Army and the Organized Militia who may be competitors in the national rifle match: *And provided further*, That no competitor shall be entitled to commutation of rations in excess of $1.50 per day, and when meals are furnished no greater expense than that sum per man per day for the period the contest is in progress shall be incurred," so as to make the proviso read:

Provided, That the sum of $12,000 is authorized to be expended for supplying meals or furnishing commutation of rations to enlisted men of the Regular Army and the Organized Militia who may be competitors in the national rifle match: *And provided further*, That no competitor shall be entitled to commutation of rations in excess of $1.50 per day, and when meals are furnished no greater expense than that sum per man per day for the period the contest is in progress shall be incurred.

The amendment was agreed to.

The next amendment was, on page 28, line 14, after the word "That," to insert "hereafter."

The amendment was agreed to.

The next amendment was, in the item of appropriation for purchase of subsistence supplies, on page 29, line 2, after the word "transportation," to insert:

Provided further, That when contracts which are not to be performed within 60 days are made on behalf of the Government by the Commissary General, or by officers under him authorized to make them, and are in excess of $500 in amount, such contracts shall be reduced to writing by the contracting parties, with their names at the end thereof. In all other cases purchases shall be made in accordance with Army Regulations: *Provided*, That hereafter, during the period of an active campaign in the field, officers shall be included on the ration returns of the organizations with which they are serving, and rations shall be issued to them as to the enlisted men.

The amendment was agreed to.

The next amendment was, under the subhead "Quartermaster's Department," in the item of appropriation for the purchase of regular supplies, on page 30, line 21, after the word "animals," to strike out "and hereafter, when an officer is separated from his authorized number of owned horses through the nature of the military service upon which employed, they shall not be deprived of forage, bedding, shelter, shoeing, or medicines therefor, because of such separation," so as to read:

For the necessary furniture, textbooks, paper, and equipment for the post schools and libraries; for the tableware and mess furniture for kitchens and mess halls, each and all for the enlisted men, including recruits; of forage in kind for the horses, mules, and oxen of the Quartermaster's Department at the several posts and stations and with the armies in the field, and for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry and scouts as may be mounted, and for the authorized number of officers' horses, including bedding for the animals; of straw for soldiers' bedding, and of stationery, typewriters and exchange of same, including blank books for the Quartermaster's Department, certificates for discharged soldiers, blank forms for the Pay and Quartermaster's Departments, and for printing department orders and reports.

The amendment was agreed to.

The next amendment was, on page 34, line 14, after the word "thereto," to insert "including not to exceed $200,000 for the purchase of land accessible to the horse-raising section of the State of Virginia, for the assembling, grazing, and training of horses purchased for the mounted service," and in line 18, before the word "hundred," to strike out "three" and insert "five," so as to read:

Horses for Cavalry, Artillery, and Engineers: For the purchase of horses for officers entitled to public mounts for the Cavalry, Artillery, Signal Corps, and Engineers; the United States Military Academy, service schools, and staff colleges, and for the Indian scouts, and for such Infantry and members of the Hospital Corps in field campaigns as may be required to be mounted, and the expenses incident thereto, including not to exceed $200,000 for the purchase of land accessible to the horse-raising section of the State of Virginia, for the assembling, grazing, and training of horses purchased for the mounted service, $517,165.50.

Mr. KEAN and Mr. CUMMINS addressed the Chair.

Mr. CUMMINS. I was going to make an inquiry.

Mr. KEAN. I was only going to ask the Senator from Wyoming if the land already purchased by the Government near Mount Vernon could not be used for this purpose instead of appropriating two hundred and odd thousand dollars more.

Mr. WARREN. I assume that the Senator from New Jersey is speaking in a light vein.

Mr. KEAN. I assure the Senator I am not. The land was purchased——

Mr. WARREN. I think the tract mentioned by the Senator from New Jersey would not be adaptable to this purpose.

I want to say just a word in connection with this amendment. Its purpose is that horses of a younger age may be bought at less figures, and trained as they grow and approach the age for breaking and use. They have already saved, by purchasing younger horses at far less prices and training them at these remount stations, a great many thousand dollars, and this amendment will tend to save the cost of this investment, probably, every year. It calls for the purchase of 5,000 acres especially adapted for this purpose in Virginia, where the station is very much needed.

Mr. MARTIN. I will say for the information of the Senator from New Jersey, that I know that country thoroughly, and it is not at all adapted and would be totally unfit for the purposes that are contemplated by this amendment.

Mr. CUMMINS. I do not yet fully understand the matter from the explanation of the Senator from Wyoming. These horses are at this time purchased throughout the United States, from Maine to California. Is it intended that they shall all be brought to the State of Virginia in order to be grazed upon these four or five or ten thousand acres of land——

Mr. WARREN. No, Mr. President.

Mr. CUMMINS. And there trained, and then put into the service?

Mr. WARREN. We already have two training stations, one in the Northwest and one in the Southwest. This is intended to cover the purchase of land adjacent to the horse-raising country in the East, where 2-year-old and 3-year-old horses which may be purchased can be assembled and cared for without great expense, and broken to the special service that they are intended for, as Cavalry, Artillery, or quartermasters' horses.

Mr. CUMMINS. I am asking whether the horses which are bought throughout the country are to be brought here.

Mr. WARREN. Yes; those which are bought adjacent to the land.

Mr. CUMMINS. How many horses are in use in the service in this neighborhood?

Mr. WARREN. I do not know what the Senator comprehends by "this neighborhood." Does he mean right here in Washington?

Mr. CUMMINS. I mean within a fair distance of this place in Virginia.

Mr. WARREN. There may be 500, but we have 15 regiments of Cavalry, of 12 troops, each with one hundred and odd enlisted men when they are filled. We have one hundred and odd batteries of Artillery, a large number of which are Field Artillery, with 130 or 140 men each, who have horses; and, of course, there is the transportation at the various places throughout the United States and in our island possessions.

Now, in early times we were in the habit of letting horse contracts at large figures. In fact, they were reaching pretty well toward $200 per horse, and receiving horses at various places. The trouble was that a great many of the horses that had been broken for other services did not take well to the Government or Army service, and it was thought better to buy younger horses at much lower figures and have them broken for the special use for which the Government intends them. It has so far, in the remount stations already established, worked out very well and has resulted in very greatly cutting down the expense of horses and mules for use in the Army, as this will certainly do.

This amendment is restored to the bill. It was in the original bill, and it seemed to have had the support of a very large proportion of the House, but a point of order took it out, and upon thorough investigation by the Committee on Military Affairs of the Senate it was thought best to restore it.

Mr. CUMMINS. I do not question the propriety of having a place to train these horses, but my question is whether you are going to bring to Virginia the horses from the whole United States——

Mr. WARREN. No.

Mr. CUMMINS (continuing). In order to train them and then ship them to the various posts where they are needed.

Mr. WARREN. No.

Mr. CUMMINS. I take it that comparatively few of the horses in the service are in this general community.

Mr. WARREN. Yet the supply, or quite a proportion of it, lies quite near this place.

Mr. CUMMINS. What do you mean by "supply?"

Mr. WARREN. One moment. We already have a remount station at Fort Keogh, Mont., where the horses bought in the North are sent. We have another in Oklahoma. We propose to establish this one in Virginia, because in Virginia, Tennessee, and Kentucky, and other near-by States, quite a large proportion of the proper breed and style of horses are found, and our purchases now are quite largely from that locality. In order to carry out the idea of buying and training young horses we should be compelled, except for this amendment, to ship them to the far western remount stations; and the object of this amendment is to take care, in this vicinity, as cheaply as possible, of the proportion of horses that are bought near by.

Mr. CUMMINS. Take, for instance, the Army post in my own State. Is it expected that horses will be bought for that post, brought down here, and then shipped back to Iowa? If so, the cost of transportation would be more than the value of the horse.

Mr. WARREN. We have for some time had regulations that at these posts mature horses might be bought as offered, but they do not seem to be offered in sufficient numbers of the proper kind, and this has been found to be much the cheaper way of handling the equation. If mature horses were bought near the Iowa Army post mentioned, they would immediately go into service there, but younger horses, needing training, would go to one of the remount stations, probably to the one in Oklahoma if bought in Iowa.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GALLINGER. I wish to ask the Senator from Wyoming if he desires to have the Senate go on with the bill any further this evening. It is rather necessary that we should have an executive session.

Mr. WARREN. I will say to the Senator there are only a dozen pages more. If I thought we could conclude in a little time I would prefer to go through with it, but I will defer to the Senator's wishes.

Mr. GALLINGER. We will pass it to-morrow.

ELECTION OF SENATORS BY DIRECT VOTE.

Mr. BRISTOW. I desire to announce that, if agreeable, I will, on Thursday, immediately after the morning business, speak on the joint resolution providing for the election of United States Senators by direct vote of the people.

EXECUTIVE SESSION.

Mr. GALLINGER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened, and (at 5 o'clock and 10 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, February 7, 1911, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 6, 1911.

SURVEYOR OF CUSTOMS.

Duncan E. McKinlay, of California, to be surveyor of customs in the district of San Francisco, Cal., in place of Edward F. Woodward, deceased.

UNITED STATES ATTORNEY.

Charles W. Hoitt, of New Hampshire, to be United States attorney, district of New Hampshire. (A reappointment, his term expiring February 12, 1911.)

UNITED STATES MARSHALS.

Thomas F. McGourin, of Florida, to be United States marshal, northern district of Florida. (A reappointment, his term expiring February 27, 1911.)

W. A. Halteman, of Washington, to be United States marshal for the eastern district of Washington, vice George H. Baker, term expired.

Joseph R. H. Jacoby, of Washington, to be United States marshal for the western district of Washington, vice Charles B. Hopkins, term expired.

APPOINTMENT IN THE ARMY.

COAST ARTILLERY CORPS.

John Emmitt Sloan, of South Carolina, late midshipman, United States Navy, to be second lieutenant in the Coast Artillery Corps, with rank from February 3, 1911.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 6, 1911.

PROMOTIONS IN THE ARMY.

GENERAL OFFICER.

Col. Robert K. Evans to be brigadier general.

JUDGE ADVOCATE GENERAL'S DEPARTMENT.

Col. Enoch H. Crowder to be Judge Advocate General.

INFANTRY ARM.

First Lieut. Perrin L. Smith to be captain.

COAST ARTILLERY CORPS.

First Lieut. Albert L. Rhoades to be captain.

Second Lieut. Harry R. Vaughan to be first lieutenant.

TRANSFERS IN THE ARMY.

COAST ARTILLERY CORPS.

Second Lieut. Calvin McC. Smith to be transferred from the Infantry Arm to the Coast Artillery Corps.

INFANTRY ARM.

Second Lieut. Harrison C. Browne to be transferred from the Coast Artillery Corps to the Infantry Arm.

APPOINTMENT IN THE ARMY.

INFANTRY ARM.

Marion Pervis Vestal to be second lieutenant.

POSTMASTERS.

COLORADO.

J. A. Smith, Stratton.

CONNECTICUT.

Ira E. Hicks, New Britain.
Courtland C. Potter, Mystic.
George T. Schlueter, Darien.
Frederick L. Scott, Farmington.

GEORGIA.

Clifford H. Dyar, Adairsville.

IDAHO.

Daniel C. Burr, Genesee.
Orville J. Butler, Harrison.
W. Van Iorns, Hagerman.

ILLINOIS.

A. Leslie Bowling, Equality.
Edward D. Cook, Piper City.
William L. Jones, Lebanon.
Frank G. Robinson, El Paso.
Thomas H. Stokes, Lincoln.

INDIANA.

James P. Clark, Morocco.
Samuel A. Connelly, Upland.
James A. Long, Wingate.
Willard Lucas, New Haven.
Calvin Myers, Francesville.
William E. Netherton, Winamac.
Edward Patton, Veedersburg.
Thomas Rudd, Butler.
John L. Sharp, Pennville.
Clinton T. Sherwood, Linton.
David L. Snowden, Andrews.

IOWA.

James M. Burroughs, Springville.
George W. Irwin, Merrill.
Benjamin H. Tamplin, Hull.
Preston T. Waples, Castana.

KANSAS.

Elmer Alban, Westphalia.
Paul O. Coons, Spring Hill.
Fred C. Oehler, Cherryvale.

KENTUCKY.

Belle Flanery, Prestonsburg.

MINNESOTA.

Leonard Scott, Deer River.

MISSOURI.

C. E. Oden, Cainesville.

MONTANA.

Melvin Rowe, Cascade.
James N. Starbuck, Valier.

NEBRASKA.

Nellie Strain, Chester.

NEW JERSEY.

James F. Beardsley, Pompton Lakes.
Joseph Miller, Salem.

NEW YORK.

John B. Alexander, Oswego.
Andrew D. Annable, Otego.
Adelbert E. Brace, Jordan.
Florence Bayles, Oyster Bay.
George R. Cornwell, Penn Yan.
Herbert J. Curtis, Red Hook.
William M. Morrison, Groveland Station.
Milton L. Whitney, Oxford.
Elvira Williams, Fort Terry.

PENNSYLVANIA.

William F. Brittain, Muncy.
Howard E. Butz, Huntingdon.
Harold C. Carpenter, Troy.
Frederick T. Gelder, Forest City.
John B. Griffiths, Jermyn.
Frank E. Hollar, Shippensburg.
John S. Read, Factoryville.
John H. Thomas, Carbondale.
David M. Turner, Towanda.
John S. Weaver, Mechanicsburg.

SOUTH CAROLINA.

Benjamin J. Hammet, Blackville.
Guss E. Smith, Mullins.

SOUTH DAKOTA.

Cyrus B. Williamson, Watertown.

TEXAS.

Evans H. Angell, Kilgore.
Clarence W. Atchison, Junction.
S. T. Blackwell, Celeste.
George W. Brown, Devine.
Leander A. Canada, Morgan.
John J. Cypert, Hillsboro.
William H. Ingerton, Amarillo.
William P. Lace, Burleson.
William G. McClain, Waxahachie.
Laura M. Poe, Santa Anna.
Elizabeth Rhea, Groesbeck.
Jay S. Richard, Itasca.
William E. Sayers, Bay City.
Hugo E. Schuchard, Menard.
Seth B. Strong, Houston.
Frank P. Varley, Collinsville.
George S. Zeigler, Eagle Lake.

VIRGINIA.

J. W. Hubbard, Honaker.
James H. Sumpter, Floyd.

WISCONSIN.

Thomas G. Aiken, Onalaska.
Francis R. Dittmer, Seymour.
Charles Kimnach, Cudahy.
James W. Meiklejohn, Waupun.
Emory A. Odell, Monroe.
Albert H. Tarnutzer, Prairie du Sac.
Albert J. Topp, Waterford.

WITHDRAWAL.

Executive nomination withdrawn February 6, 1911.

Jerome W. Jones to be postmaster at Brookfield, Mo.

REJECTION.

Executive nomination rejected by the Senate February 6, 1911.

Elmer B. Colwell to be United States marshal for the district of Oregon.

HOUSE OF REPRESENTATIVES.

MONDAY, *February 6, 1911.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our God and our heavenly Father, whose spirit is ever in touch with those who are susceptible, open Thou our minds and hearts that we may be susceptible to its holy influence and be guided in all our undertakings by pure motives, high ideals, that we may do noble things. The night cometh when no man can work. Help us, therefore, to be diligent ever in Thy service.

Touched again by the sudden death of one of the employees of this House, Mr. Welch, the dean of the Official Reporters, here on the floor one day, the next called to the higher life, grant, O heavenly Father, to be very near to those who loved him and help them to look forward to a brighter life, a reunion in another world, where they shall not be parted. And Thine be the praise forever. Amen.

The Journal of the proceedings of Saturday last was read and approved.

The SPEAKER. Under the rule, the Clerk will call the Unanimous Consent Calendar.

A QUESTION OF PERSONAL PRIVILEGE.

Mr. MACON. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. MACON. To a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. MACON. Mr. Speaker, I rise to a question of personal privilege as a Member of this House for the purpose of ascertaining what protection is to be extended to a Member of the House for words spoken in debate on the floor of the House; whether they are to be protected under the Constitution of the United States, or whether they are to protect themselves with a shotgun. If the House determines that the latter course